



The Planning Inspectorate

Quality Assurance Unit
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000

Mrs L De Domenico
Stratford-on-Avon District Council
Environmental Services Dept
Elizabeth House
Church St
Stratford-Upon-Avon
Warks
CV37 6HX

Your Ref: 13/01229/FUL
Our Ref: APP/J3720/A/14/2217712
Date: 30 October 2014

Dear Mrs De Domenico

Town and Country Planning Act 1990

Appeal by Mr Dean Boswell

Site at Land North Of Mill Lane, Broom, Stratford-on-avon, B50 4HP

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or feedback about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planninginspectoratefeedback>.

If you do not have internet access please write to the Quality Assurance Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Yours sincerely

David Robinson

COVERDL1

You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is -

<http://www.pcs.planningportal.gov.uk/pcsportal/casearch.asp>

You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button

Appeal Decision

Hearing held on 11 September 2014

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 October 2014

Appeal Ref: APP/J3720/A/14/2217712

Land north of Mill Lane, Broom, Warwickshire, B50 4HP

- 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 Dean Boswell against the decision of Stratford on Avon District Council.
 - The application Ref 13/01229/FUL, dated 20 May 2013, was refused by notice dated 28 October 2013.
 - The development proposed is a change of use of land to use as a residential caravan site for one gypsy family with two caravans, including no more than one static caravan/mobile home, together with laying of hardstanding, construction of driveway and erection of amenity building.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use of land to use as a residential caravan site for one gypsy family with two caravans, including no more than one static caravan/mobile home, together with laying of hardstanding, construction of driveway and erection of amenity building at land north of Mill Lane, Broom, Warwickshire, B50 4HP in accordance with the terms of the application, Ref 13/01229/FUL, dated 20 May 2013, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - Whether the proposed site would be in an accessible location having regard to local services and facilities;
 - The effect on the character and appearance of the countryside;
 - The effect on highway safety along Mill Lane and Bidford Road; and
 - Whether the proposal would increase the flood risk associated with surface water run-off.

Reasons

3. The intended occupiers are the appellant, his wife and 6 children. They currently live on a small pitch at a public site in Bromsgrove where they have experienced conflict and intimidation. Moving to Broom would allow the family to support Mrs Boswell's father who lives in the village.
4. The recently updated Gypsy and Traveller Accommodation Assessment concludes that there is a need for 41 pitches in the 5 year period to 2019.

These findings are to be included in the emerging Core Strategy which is due to be submitted for examination in October 2014. This will determine the level of future planned provision and will be followed by a Gypsy and Traveller Local Plan containing site allocations. Whilst this portrays the most-up-to-date position only limited weight can be given to the new Core Strategy. This is because there is no certainty that the supporting evidence base will be found to be sufficiently robust and consequently whether the overall level of need will be sound. However, the Assessment indicates that this equates to 71 pitches over the plan period to 2031 which is significant.

5. Some existing traveller sites may have free pitches but the Council is unable to guarantee their availability. On the basis of this evidence there are therefore no realistic alternatives. Whilst steps are in place to allocate suitable sites this process still has some way to go so that the significant need for sites in the District will not be met in the near future. Since in and out migration is bound to occur and as the Planning Policy for Traveller Sites (PPTS) confirms that the existence of local connections is not determinative the proposed site would contribute towards meeting the existing need. In any event, although the intended occupiers are known, the proposal is for a site for one gypsy family and, if permitted, would add to the existing stock.

Whether the proposed site would be in an accessible location?

6. The appeal site is located on the edge of Broom which has a very limited range of facilities. It is not included as a Local Centre Village under Policy STR.1 of the Stratford-on-Avon District Local Plan Review 1996-2011 (LP). Furthermore, following updates to the criteria, Broom is not to be categorised as a Local Service Village within the emerging Core Strategy. As a consequence even a single infill plot within the village would be resisted on policy grounds although the situation could be different for local needs housing.
7. However, Bidford-on-Avon is a Main Rural Centre. The site is about 1.8km from the centre of Bidford and it is around 1.6km to the supermarket on its periphery. It is accepted that future occupiers of the site would be primarily reliant on the private car although, in theory, walking or cycling may be options. Nevertheless, any car journeys undertaken to access day-to-day facilities could be quite short. Having regard to the proximity to Broom and Bidford the proposal would not amount to new traveller development in open countryside that is *away* from existing settlements [my emphasis]. A single pitch would not dominate a community the size of Broom. Neither is it in an isolated location. Consequently there would be no conflict with the provisions of paragraph 23 of the PPTS or with paragraph 55 of the National Planning Policy Framework.
8. The PPTS makes no mention of distance to services or modes of travel when assessing the sustainability of traveller sites. However, that document should be read in conjunction with the Framework which indicates, amongst other things, that the fullest possible use should be made of public transport, walking and cycling. Nevertheless, the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and that different policies and measures will be required in different communities. The PPTS anticipates that sites may be in rural or semi-rural settings. Paragraph 7.39.2 of the LP also accepts that small scale proposals for gypsy sites may be permitted as an exception to normal policies of restraint.

9. Against the backdrop of this implied flexibility and the distances involved the proposed site would be in a reasonably accessible location having regard to local services and facilities broadly consistent with the intentions of national policy. Criterion (c) of LP Policy CTY.7 seeks to ensure that appropriate facilities are provided to meet the requirements of people living on site. However, I take this to refer to the availability of services such as water, electricity and drainage. The proposal is therefore not contrary to the development plan in this respect.

Character and appearance of the countryside

10. The PPTS does not rule out all traveller sites in the countryside and paragraph 24 indicates that sites need not be completely hidden. Whilst soft landscaping may have a role to play the implication is that some visual impact is likely to be experienced. The LP also indicates that small sites may be located in the countryside. One of the aims of the PPTS is nevertheless to have due regard to the protection of local amenity and the local environment. The appeal site is on the fringe of the village. Although there are residential properties along Mill Lane the existing character of the site is more rural than urban or suburban. It is largely undeveloped apart from a stable building close to the entrance and other outbuildings.
11. In this case, the mobile home, tourer and amenity block would be set well back from Mill Lane to the rear of Vine Cottage and enclosed by existing perimeter planting. As such, the consequences for the locality would be minimal. The existing entrance would be widened and vegetation removed although the trees on either side could be retained. A long drive would run northwards into the site with a post and rail fence alongside it. At present the grassy paddock can be glimpsed through the gate and is a pleasant, if not a prominent, feature. The new hard surfacing and any domestic use of it would represent a change on the outskirts of Broom. However, neither a drive nor a fence would be entirely unexpected in the countryside. Moreover, views of these works including their curving alignment would be framed and screened by the existing landscaping at the entrance. As such, they would be recessive and unobtrusive elements in the local scene.
12. Therefore the character and appearance of the countryside would not be harmed by the proposal. Furthermore, the aims of LP Policies PR.1, DEV.1 and criterion (b) of Policy CTY.7 to protect and respect the character of the local area and of the countryside would not be infringed.

Highway safety

13. Criterion (a) of Policy DEV.4 of the LP establishes that the safety of all road users and pedestrians should not be impaired. The Framework also indicates that account should be taken of whether safe and suitable access to the site can be achieved for all people. In my view the reference to "severe" impacts in the third bullet point of paragraph 32 relates to the sentence that precedes it rather than to all transport grounds.
14. The access to the site is directly off the junction of Mill Lane with Bidford Road (C103) at a point where Bidford Road has a tight, almost right-angled bend. Mill Lane leads in and out of the village but according to the Highway Authority vehicle flows along it are light. Some residents contest this view because it is easier to negotiate than the High Street and due to the traffic associated with

the swim school; its use by delivery vehicles and the amount of housing at the far western end. Nevertheless, whilst there are no statistics, from what I saw and heard the description used by the County Council is a reasonable one. Bidford Road is busier.

15. The objection relates mainly to the limited forward visibility for vehicles entering the site due to the road layout. Because of the location of the entrance this would not be an entirely straightforward manoeuvre. If approached from the south along Bidford Road drivers would have to turn into Mill Lane and simultaneously ensure that no vehicles were approaching eastwards on the opposite carriageway of Mill Lane. Although visibility in excess of 70m along Mill Lane is possible this would only be achievable once the fence around The Firs had been rounded. If coming from Bidford Road to the east a right turn into Mill Lane would be very quickly followed by a further right turn across Mill Lane at its mouth.
16. In both cases these turning movements may be unexpected for any drivers immediately behind the vehicles carrying them out. Furthermore, those approaching the stop lines at the end of Mill Lane may be surprised by vehicles cutting across the end of the road from the south in order to enter the site. Turning into the site having travelled along Mill Lane should not be problematic if the kerb radii are improved as envisaged. Other possible "bizarre" behaviours were suggested but it can be assumed that drivers would use due care and attention. However, if the configuration of the access in relation to the junction were inherently hazardous that would be a different matter.
17. In assessing this, the speed limit is 40 mph along Bidford Road but I saw that vehicles slowed in order to take the sharp bend even if continuing on that route. Mill Lane has a 30 mph limit but drivers approaching the stop lines would be slowing down. The last recorded personal injury accident at this point in the road network was in 2003 suggesting that the level of danger is low. However, there is considerable anecdotal evidence of damage to the fence at The Firs; of collisions where no injuries were sustained and of near misses. The nature and volume of these representations should not be ignored.
18. Nevertheless, I characterise the task for drivers turning into the site from either direction along Bidford Road as awkward rather than anything else. This is because drivers would need to assimilate a number of different pieces of information about road conditions and the presence of other vehicles in a short space of time. The unexpectedness of entering the site may also alarm others. However, the chances of conflict are small because various different elements would have to be in place for a collision to result. Furthermore, the speed of any turns into the site would not be high. Those living at the site would soon become acquainted with the entrance. Familiarity can lead to carelessness but it is more likely that there would be a keen awareness of the possible hazards.
19. Furthermore, the access already exists. There is evidence that the land has been used over the years for equestrian purposes for keeping up to 5 horses and that visits were made in order to tend the animals. The recent position was confirmed at the hearing and the appellant attributes 6 trips a day to this use of the land. Local residents may not have seen signs of such activity and have also noted that vehicles park at the entrance rather than within the site. However, given that there is a stable building in place the existing level of traffic associated with the site is not zero.

20. A single gypsy site would generate a modest amount of traffic. The technical highway evidence is that 8-10 daily movements in and out of the site should be regarded as the best estimate of the likely implications. It is possible that any children living at the site would, in time, become car drivers but the figures given are based on empirical, historic data and future proofed. They therefore provide a valid basis for assessment. The upshot is that across the day as a whole, vehicles would enter the site infrequently. Furthermore, compared to previous uses of the site the increase in movements would be small.
21. Whilst the works to the entrance would slightly accentuate the existence of the access to the appeal site it would not cause a distraction in its own right. Neither would it make it more likely than it is now that traffic heading north on Bidford Road would mistake the line of the road and head straight into the site rather than following the road to the right.
22. The proposed use of the access has been consistently opposed by the Highway Authority. Sometimes even a continuation or a modest increase in the use of a sub-standard or dangerous access might provide sufficient reason to resist a development. However, that is not the case here. Although entering the site would require caution the level of risk is not such that an objection should be raised especially given the scale of the proposal. Therefore it would not harm highway safety along Mill Lane or Bidford Road and there would be no conflict with the development plan or national policy in this respect.

Flood risk

23. The appeal site is within Flood Zone 1 where the probability of river or sea flooding is low and where highly vulnerable development, such as caravans and mobile homes, is not precluded. It is not within a functional floodplain which is defined as Zone 3b. However, the Environment Agency's maps show that the southern part of the appeal site is at risk of surface water flooding to a depth of 300mm in a 1 in 30 year event. Water from the surrounding fields accumulates at this point as it is a low spot topographically and acts as a natural sink. The previous Flood Risk Manager at the County Council refers to extreme circumstances in 1998 and 2007 when the amount of surface water was excessive and flowed down Mill Lane. There is no firm evidence of more frequent pluvial flood events associated with the appeal site.
24. Flooding is a particular concern for residents of Broom especially at the western end of Mill Lane close to the River Arrow. I heard of difficulties for those living in that part of the village and also about flooding in Bidford Road and of attempts being made to alleviate the impacts. The fear is that additional run-off from the appeal site would make matters worse and paragraph 103 of the Framework confirms that local planning authorities should ensure that flood risk is not increased elsewhere. However, the key question is what effect would the proposed development have on the existing situation?
25. In this respect the Flood Risk Assessment produced for the appellant analyses the extent of additional development and the volume of additional surface water flows as a result. Sustainable Urban Drainage Systems are considered and a gravel filled trench is recommended as the most practical option to increase water storage capacity at the site. The calculations provided indicate that flows to the existing off-site drainage system would be reduced and hence the risk of flooding to properties downhill from the site would also be reduced.

26. The County Council raises no objection in principle to this solution. Although it would have sought further clarification about certain aspects of the Assessment the underlying methodology and calculations were not challenged in any detail at the hearing. Therefore there is no reason to suppose that this matter could not be adequately dealt with by a condition which should include details of an overflow mechanism and also a maintenance and management strategy. Details should also be provided of the access road to ensure that it is constructed in a permeable surface material.
27. The proposed living accommodation would be located on higher land outside of the area affected by surface water flooding. In the event of a flood there is no evidence that occupiers would be at risk of being 'cut-off' having regard to the likely shallow depth of water.
28. Therefore subject to the imposition of a condition to secure details of a drainage system the proposal would not increase the flood risk associated with surface water run-off. In so doing the proposed development would accord with the expectations for drainage in Policy DEV.7 of the LP and there would also be no conflict with Policy PR.7 which is concerned with flood defence.

Other Matters

29. The Framework refers to the setting of heritage assets and there is a statutory duty to have special regard to the desirability of preserving the setting of a listed building. Whilst at the entrance to the village the site is some 170m from the edge of Broom Conservation Area and consequently would have no bearing on its qualities. The proposed caravans and amenity building would be about 40m from the closest listed building. Having regard to the scale of the proposed development and its relative position there would be no adverse impact on the setting of this heritage asset.
30. Owing to recent developments permitted around Bidford there is concern about the capacity of primary schools in the area. However, the written evidence suggests that further forecasts of pupil places are required before a definitive stance can be taken that further development in the area is unwelcome. In any event, the appellant said that initial inquiries had indicated that there would be spaces for his children. There is also nothing to show that the school at nearby Dunnington is full. Whilst adequate provision should be made for necessary infrastructure there is no clear indication that primary school education in the vicinity of the appeal site would be lacking.
31. There is some concern about the effect on amenity but I am satisfied that the separation with adjoining houses is such that no harm should arise in relation to noise or other normal elements of a residential use.

Conditions

32. Occupation should be limited to gypsies and travellers given the specific policy basis for accepting the use. To limit visual impact the number of caravans should be restricted. Details of landscaping including hard surfacing should be agreed in advance to secure a satisfactory appearance but there are sufficient details of fencing. Commercial activities should be precluded to protect amenity. However, a condition preventing the burning of materials would not be imposed on conventional housing and it would therefore be unreasonable to attach such a restriction at a traveller site.

33. As previously indicated details of surface water drainage should be provided in addition to sewage disposal. The tarmac shown on the site layout plan would be impermeable so consideration could also be given to another suitable treatment. In addition, further detail should be given of the access arrangements over and above the 1/500 plan accompanying the application. This is to ensure both a satisfactory appearance and a properly functioning access onto Mill Lane.

Conclusions

34. There is a significant need for traveller sites in Stratford District but none are available. Provision to meet this need through the development plan process is unlikely to occur in the near future. The proposal would contribute towards meeting that need albeit in a modest way.
35. The proposal would not harm the character or appearance of the countryside or highway safety along Mill Lane or Bidford Road. With suitable conditions the flood risk associated with surface water run-off from the site would not increase. The site would also be in a reasonably accessible location having regard to local services and facilities. The proposed development would not be contrary to relevant policies of the development plan. In particular, it would accord with Policy CTY.7 of the LP which is a criteria based policy for gypsy and traveller sites. No other considerations outweigh this finding.
36. The Framework contains a presumption in favour of sustainable development. The PPTS expects that traveller sites are sustainable economically, socially and environmentally. Some residents may be doubtful about the prospects for cohesion but because of its location close to houses the site offers the potential for a peaceful and integrated existence with the local community. A base for travellers would bring about the benefits of access to appropriate health services and of ensuring that children could attend school on a regular basis. It could also reduce the need for long-distance travel and environmental damage caused by unauthorised encampment. The proposal would therefore perform very well against the social dimension of sustainable development. The consequences for the environment and the economy would be largely neutral. Therefore, notwithstanding the likely use of the car, the proposal would, when considered in the round, achieve a sustainable form of development. This reinforces my conclusion in relation to the development plan.
37. In these circumstances a permanent permission is justified and there is no need to consider a temporary permission or any human rights implications for the appellant. Therefore, for the reasons given, my final conclusion is that the proposal is acceptable and the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites (DCLG, 2012).
- 3) There shall be no more than 1 pitch on the site with no more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) stationed on it at any time of which only one shall be a residential mobile home.
- 4) No commercial activities shall take place on the site, including the storage of materials.
- 5) Notwithstanding the site layout plan no development shall take place until details of landscaping, of hard surfacing and of the access onto Mill Lane have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The access onto Mill Lane shall be implemented prior to the commencement of the residential use of the site. All planting shall be carried out in accordance with a timetable agreed in writing by the local planning authority. Any trees or plants which die, are removed or become seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 6) No development shall take place until details of sewage disposal and of surface water drainage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The details of surface water drainage shall include sustainable urban drainage system techniques to ensure that run-off from the site does not increase; a mechanism to allow for overflow and a maintenance and management strategy. Any system shall be maintained and managed in accordance with the approved strategy.

APPEARANCES

FOR THE APPELLANT:

Mr P Brown

Philip Brown Associates Ltd

Mr G Bailes

MSc BSc MCIHT

Mr D Boswell

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Castle

Planning Officer, Stratford-on-Avon District Council

Mr D Barker

MRTPI

Assistant Team Leader, Stratford-on-Avon District Council

Ms K Watkins

Highway Engineer, Warwickshire County Council

Mr M Green

CEng MCIWEM

Flood Risk and Water Management Manager, Warwickshire County Council

Mr J Mahal

Drainage Engineer and Flood Risk Management Officer, Warwickshire County Council

INTERESTED PERSONS:

Cllr J Spence

Ward Councillor

Mr J Harvey

Bidford-on-Avon Parish Council

Mr B Hawker

Mr I Buckley

Mr P Chadwick

Mr Harrison

Mr P Howell

Mrs A Preece

Mr R Davies

Ms S Walker

Mr M Sealy

Mr S Smith

Ms L Tarrant Smith

DOCUMENT

- 1 Broom Conservation Area statement and plans
- 2 Plan of existing conditions produced by Banners Gate