



Appeal Decision

Hearing Held on 2 December 2022

Site visit made on 5 December 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/L3245/W/22/3300532

Five Oak Stables, Coton, Whitchurch SY13 3LQ

- 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 Luke Vincent against the decision of Shropshire Council.
 - The application Ref 21/04560/FUL, dated 20 September 2021, was refused by notice dated 6 December 2021.
 - The development proposed is material change of use from equestrian to a mixed use of equestrian and the stationing of caravans for residential purposes including the erection of two dayrooms ancillary to that use.
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Decision

1. The appeal is allowed and planning permission is granted for material change of use from equestrian to a mixed use of equestrian and the stationing of caravans for residential purposes including the erection of two dayrooms ancillary to that use at Five Oak Stables, Coton, Whitchurch SY13 3LQ in accordance with the terms of the application, Ref 21/04560/FUL, dated 20 September 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. Planning permission has been granted on appeal for the change of use of the site to private equestrian use and for the erection of stabling, a hay shed and implement store¹. On my visit I saw horses being kept on the site as well as stables and a hay shed. Also, 2 static caravans were positioned on an area of gravel on the south side of the access. I am advised that one of these mobile homes is occupied by the appellant and his family and the other by the appellant's brother-in-law's family. Therefore, it would seem a mixed residential and equestrian use has already commenced.
3. The Council's reasons for refusal raises doubt over whether the residential element of the development would be for Gypsies or Travellers. However, the Council's objections refer to policy CS12 of the Shropshire Core Strategy 2011 (CS), which relates specifically to Gypsy and Traveller provision. Also, the appellant's agent confirmed at the hearing that the residential accommodation is for Gypsies and Travellers, even though this is not specifically mentioned in the description of development. The evidence demonstrates the current occupants comply with the definition of Gypsies and Travellers as set out in the

¹ Appeal reference number APP/N3210/A/04/1163357.

Planning Policy for Traveller Sites (PPTS). Therefore, I have assessed the development on the basis it provides residential accommodation for Gypsies and Travellers.

4. Reference is made in the submissions to an emerging local plan policy DP8 on Gypsy and Traveller sites. This policy is currently the subject of examination and final comments are awaited from the examining inspector. Also, it is subject to unresolved objections. As such, I am uncertain whether policy DP8 will be adopted in the form provided and so it is attributed limited weight.

Main Issue

5. The statement of common ground (SoCG) explains that the Council no longer objects to the development for ecology reasons. Also, the Council has withdrawn its third refusal reason following the submission of additional highway information. Consequently, the main issue is whether the development is in a suitable location having regard to CS policies, the PPTS, the National Planning Policy Framework (the Framework) and accessibility.

Reasons

6. CS policy CS12 supports the development of Gypsy and Traveller sites close to Market Towns and Community Clusters. Also, it seeks to ensure sites are reasonably accessible to services and facilities. The term "close to" as set out in policy CS12 is not defined in the CS. However, as suggested by the Council's officer at the hearing, it is appropriate to consider a site with reasonable accessibility to services as being close to a settlement. In these regards, CS policy CS12 is generally consistent with the PPTS. Amongst other things, this promotes the provision of private Gypsy and Traveller sites that allow access to schools and health services.
7. The Council's Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) recognises the extreme difficulties in obtaining sites for Gypsies and Travellers in towns and villages. Accordingly, it suggests new sites may need to be further outside settlements than would normally be the case for other developments. My assessment on the accessibility of the development has regard to this SPD advice.
8. Coton is a loose cluster of properties interspersed with fields, woods and hedgerow. It is not identified as a settlement in the CS and it contains no obvious facilities. However, Tilstock and Prees Heath lie to the north and north east of Coton and together they form part of a Community Cluster. Whitchurch lies further to the north and is a Market Town. To the south and south east, Prees and Prees Higher Heath are part of another Community Cluster.
9. The SoCG states that Tilstock is approximately 1.6km from the site. The village contains a primary school, pub, village hall, bowl and tennis club and play ground. Also, it has bus stops that serve buses which travel between Whitchurch and Shrewsbury. Prees Heath to the east of Tilstock has several eating establishments, a petrol filling station with shop as well as a separate convenience store. All of these services are within a 5 minute drive from the appeal site.
10. A broader range of facilities including secondary schools, supermarkets and health services are located at Whitchurch. These are further away from the site than Tilstock but they can still be reached by car within 10 to 20 minutes.

Prees is stated as being 3.3 km from the site and it contains a primary school, shops, church and GP surgery. Also, outside the village there is a railway station where trains can be boarded and that run between north and south Wales. These facilities are about a 10 minute car journey from the site.

11. The short drive times from the development to the nearest settlements suggests it is not unduly remote. The occupiers could fairly easily access a range of day to day services and facilities by car.
12. In line with the Framework, CS policy CS5 supports development that maintains and improves the sustainability of rural communities by bringing local economic and community benefits. The development's location between Tilstock, Prees Heath and Prees and the short drive times means it is likely occupants would support local services. Already, children that live on the site attend the school in Prees, so demonstrating such support. Moreover, the site provides a settled base where residents can reach local health services. In these respects, the development accords with the PPTS.
13. The appeal site and its surroundings have an obvious rural feel due to the presence of fields and woods. The Inspector for the aforementioned appeal regarding equestrian use of the site described the area as open countryside. However, there is no mention in this previous appeal decision to the nearby properties that are seen from the road and which also influence the character of the area. As such, it is reasonable for the appellant to suggest the site lies amongst development which defines Coton rather than in open countryside away from settlements. In any event, the PPTS only looks to strictly limit new Gypsy and Traveller sites in the open countryside, rather than to entirely prohibit such development.
14. Residents of the site are unlikely to walk to and from facilities as the routes are unlit with no roadside pavements. However, cycling trips would be feasible given the short separation distances and generally quiet nature of the local roads. Also, I was advised at the hearing that students living at the development would be able to use a bus service that runs along the adjacent road, to and from a secondary school in Whitchurch.
15. Tilstock bus stops and the Prees railway station are beyond a reasonable walking distance from the development but are short car journeys away. Prees Station has no car park but the road next to the platforms allows the easy and safe drop off and pick up of train passengers. The local bus services provide access to towns and villages in the county, while the train services provide wider links to settlements outside Shropshire. As such, there is potential for occupiers of the development to utilise sustainable modes of transport for trips elsewhere in the county and further afield.
16. Even so, it seems likely that the site's occupants would rely on car travel for many trips. This would not be unusual given that the occupiers as Gypsies or Travellers would have a nomadic habit of life. Also, I am mindful that the authorised equestrian use of the site would generate car journeys, especially as the planning permission only precludes commercial use of the buildings and not the associated land. The introduction of a residential use would remove the need for some journeys as the residents do not travel to care for horses on the site. The appellant accepts the development would result in more car trips. However, given the authorised use of the site and the limited scale of the development, it is likely that any increase would be fairly minor.

17. It is noteworthy that CS policy CS12 does not explicitly require Gypsy and Traveller sites to be accessible by pedestrians or public transport. The policy allows new sites outside of settlements and so it is to be expected that accessibility by non-car modes of transport would be less when compared to developments in towns and villages. Also, whilst promoting walking, cycling and public transport, the Framework recognises the opportunity to use sustainable modes of transport varies between urban and rural areas. With these factors in mind, I consider the development provides an appropriate level of accessibility by means other than the car.
18. The Council refer to an appeal decision on a caravan site for Gypsies and Travellers at Beamish Lane near Albrighton². The Inspector dismissed the appeal as they found the site would not be in a suitable location, partly as it would not reduce the need for private car travel to access facilities. However, it is clear from the Inspector's comments that the presence of a dual carriageway between the site and the nearest settlement was an influential factor in the assessment. In these regards, the Beamish Lane scheme is different to the current appeal development where there is no significant physical barrier between the site and the nearest settlements. As such, I am not bound to arrive at the same conclusion. In any event, the Beamish Lane decision refers to another Gypsy and Traveller site development at the Hawthorns, which was permitted although it was found likely that the occupiers would have a high dependency on private car travel. Such comments show that the acceptability of a proposal in terms of its location is reliant on the particular circumstances of the case.
19. In summary, I find the development is close to settlements and provides reasonable access to a range of facilities. It is in a rural area and so most trips to and from the site would be by car. However, services needed on a day to day basis, including schools and health facilities, are at local settlements within short driving distances. Therefore, it is reasonable to expect occupiers would support the vitality of rural communities. Also, the site is a short drive from bus and railway links to towns further afield. Bearing in mind the rural location and the difficulty in finding Gypsy and Traveller sites in villages and towns, the site provides reasonable access to services and facilities. For these reasons, I conclude the development is in a suitable location having regard to CS policies CS5 and CS12, the PPTS, the Framework and accessibility.

Other Matters

20. The main parties have submitted evidence in respect of the need for Gypsy and Traveller sites. In short, the Council claims that a Gypsy and Traveller Accommodation Assessment updated in 2019 appropriately identifies the level of need for pitches. It is claimed that this need will be addressed through turnover on publicly owned sites in the county. The appellant is critical of the 2019 assessment for various reasons and contends that the need is higher. Also, it is suggested that turnover on sites would not address the anticipated demand for pitches.
21. There is no CS policy that requires a need to be demonstrated for new Gypsy and Traveller sites. As such, and in light of my conclusion on the main issue, my views on the level of need and whether this is likely to be met have no bearing on my overall assessment. Accordingly, I do not need to consider the

² Appeal reference number APP/L3245/W/20/3253805

matter further. However, regardless of the need and supply situation, there is no dispute that the appeal development is supported by the PPTS aim to provide more private Gypsy and Traveller sites.

22. Moreover, the Council at the hearing were unable to identify a suitable alternative plot for the current occupants of the site. None of the authorised sites identified as being vacant have land that would allow the keeping of horses as required by the appellant and his relatives. Also, the Council could not confirm that the identified private vacant sites were indeed available. While this is not a determinative factor in my assessment, the lack of alternative accommodation weighs in favour of the development.
23. The appellant's ecological appraisal recognises that some of the ponds near to the site are suitable for great crested newts (GCNs), a protected species. However, the appraisal says the site itself has limited potential for GCNs due to the poor habitat. The only suitable habitat is the base of the hedgerow on the roadside boundary and so it is suggested that precautionary working methods be adopted during construction to avoid harm. The fence and gravel surfacing along the hedgerow has already been provided to the south of the access, although that is not the case for the northern part of the site. It would be reasonable to impose a planning condition to ensure works close to the hedgerow that have not yet been carried out comply with working methods to be approved. Therefore, the development would not harm GCNs.
24. The ecological appraisal also suggests a further badger survey be carried out on the site before construction works to confirm that there are still no setts that could be disturbed. Also, external lighting should be sensitively designed to ensure dark commuting and foraging corridors for bats are maintained. Again, such measures could be secured through the imposition of planning conditions and so the development would not lead to harm in these regards.
25. The appellant has expressed a willingness to widen the gateway, slightly amend the access and set the entrance gates back to ensure vehicles can pull onto the site without unacceptably preventing traffic flows. These measures could be secured by planning condition. The visibility from the access in both directions onto the road is sufficient and it can be secured through the imposition of a visibility splay condition. Therefore, the development would not prejudice highway safety.
26. The Council raises no objections in terms of the development's effect on the character and appearance of the area, drainage, flooding or on the living conditions of any residence. I find no reason to disagree with the Council in these regards. As such, there are no matters that justify refusing planning permission.

Conditions

27. I have had regard to the list of planning conditions as suggested by the Council. Where appropriate, I have amended the wording for precision reasons and to reflect the fact that the appeal development has commenced.
28. In the interests of clarity and to ensure the development is carried out as shown, I impose a condition that lists the approved drawings. The suggested note regarding the stabling, hay shed and implement store is not needed as no physical changes are proposed in respect of these buildings.

29. In the interests of highway safety, I attach conditions regarding visibility splays and changes to the access apron. As the development has commenced, these set a deadline of 3 months from the date of this decision for implementation.
30. A landscape condition is imposed to ensure a satisfactory appearance and to maintain and enhance the biodiversity value of the site. I have amended the wording to include reference to bat and bird boxes. Also, I have included a condition to ensure the external appearance of the dayrooms are appropriate. A similar condition regarding the existing hay store and stables is unnecessary.
31. Conditions are attached to protect GCNs and badgers. These have been reworded to reflect that hard surfacing and fencing have already been provided on the southern part of the site and to more closely follow the recommendations set out in the appellant's ecological appraisal. A condition regarding external lighting is imposed to minimise disturbance to bats.
32. A condition limits the number of pitches and caravans so as to ensure the development provides appropriate living conditions and has an acceptable effect on the character and appearance of the area. There is no need for the condition to prevent static caravans on the site. A condition to prevent the removal of the roadside hedge is needed to protect the area's visual qualities.
33. It is necessary and fundamental to the acceptability of the development for a condition to be imposed that ensures the residential element is occupied by Gypsies and Travellers. The suggested condition refers to the definition set out in Annex A of the PPTS. However, the Court of Appeal in *Lisa Smith v SSLUHC [2022] EWCA Civ 1391* held that the exclusion of Gypsy and Travellers who have ceased to travel permanently is discriminatory and has no legitimate aim. Imposing the suggested condition would be liable to result in unlawful discrimination. Therefore, I impose a condition that restricts occupation to Gypsies and Travellers, defined so as to not exclude those who have ceased travelling permanently.
34. In the interests of highway safety and to safeguard general amenities of the area, I attach a condition that limits the use of the existing stables, hay shed and implement store. There is no requirement to impose conditions that restrict other commercial activities or the storage of scrap or waste as such uses would require planning permission in any event. Also, I have not attached a condition regarding drainage as a system is already in place that accords with the details as shown on the approved plans.
35. My decision to allow the appeal is on the basis that the scheme complies with development plan policies. Therefore, conditions that limit the occupation to the current residents or for a temporary period are not necessary to make the development acceptable. As such, these conditions are not imposed.

Conclusion

36. The development would be in a suitable location and there is no other reason why it is unacceptable. Therefore, the scheme accords with development plan policies when read as a whole and so I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Green, acting for

Luke Vincent

Appellant

Nathan Gorman

FOR THE LOCAL PLANNING AUTHORITY:

Jane Preece

Senior Planning Officer

Anna Jones

Senior Policy Officer

John Taylor

Gypsy and Traveller Liaison Officer

Edward West

Local Plan Manager

Michael Bullock

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LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

1. Statement of Common Ground.
2. Witness Statement of Luke Vincent

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered 20_1129_001 KL, 20_1129_004 rev B, 20_1129_005, 20_1129_006 KL.
- 2) After 3 calendar months from the date of this decision, no vegetation or other feature in excess of 0.3 metres in height above the level of the adjoining carriageway shall be allowed to grow or be positioned within visibility splays in both directions at the site access. The visibility splays shall be from a point measured 2.4 metres back from the edge of the carriageway along the centreline of the site access to points on the nearside kerb line at the extremities of the site's road frontage in both directions.
- 3) Within 3 calendar months of the date of this decision, the access apron shall be constructed to provide 7.5 metre junction radii with an access width of 5.5 metres and gates set back a minimum distance of 10 metres from the carriage edge. The access apron shall be constructed in all other respects in accordance with Shropshire Council's access crossing specification.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for residential purposes shall be removed within 28 days of the date of failure to meet any of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision a scheme for the landscaping of the site shall be submitted to the local planning authority for approval in writing. The scheme shall include a) planting plans, creation of wildlife habitats and features and ecological enhancements including details of at least 2 bat boxes and 2 artificial bird nests, b) written specification for establishment of planting and habitat creation, c) schedules of plants/seed mixes noting species, planting sizes and proposed numbers/densities where appropriate, and d) implementation timetables.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the landscaping scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
- iv) The approved landscaping scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) No construction works on the dayrooms hereby permitted shall commence until full details of external materials of the dayroom buildings 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) No development hereby permitted shall be carried out on the part of the site to the north of the access as shown on the approved plans until a precautionary working methods statement that seeks to protect Great Crested Newts has been submitted to and approved in writing by the local planning authority. Works that form part of the development hereby permitted shall be carried out in accordance with the approved statement. Also, site clearance works associated with the development shall be supervised by an ecological clerk of works. In the event of a Great Crested Newt being found during works then all works must immediately stop and shall not re-start until any requisite notice from Natural England has been obtained. Once completed, the ecological clerk of works shall provide a report to the local planning authority that demonstrates the implementation of measures as set out in the approved statement
- 7) No development hereby permitted shall be carried out on the part of the appeal site to the north of the access as shown on the approved plans until a badger survey report has been submitted to and approved in writing by the local planning authority. The report shall describe the findings of a site survey and any evidence of badger activity. In the event that the survey identifies that badger setts would be affected, the report shall set out the actions to be taken. Works that form part of the development hereby permitted shall be carried out in accordance with the approved report.

- 8) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. Only external lighting in accordance with approved details shall be provided on the site.
- 9) There shall be no more than 2 pitches on the site and on each pitch hereby approved no more than 2 caravans shall be stationed at any time, of which only 1 caravan shall be a mobile home/static caravan. The mobile homes/static caravans shall be positioned in accordance with the details as shown on the approved plans. Any touring caravan shall only be positioned on the area of proposed loose bound permeable hardstanding as shown on the approved plans and nowhere else on the site.
- 10) No part of the hedges fronting onto the B5476 shall be removed without the prior approval in writing of the local planning authority.
- 11) The residential element of the development hereby approved shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 12) The existing stables, hay shed and implement store as shown and annotated on the approved drawings shall not be used for commercial stabling of horses or associated commercial purposes.