



Appeal Decision

Hearing Held on 3 October 2017

Site visit made on 3 October 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 12 January 2018

Appeal Ref: APP/C1625/W/17/3172990

St Joseph's Travellers Park, 1 Hiltmead Lane, Moreton Valence, Nr Gloucester GL2 7NQ

- 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 J Hearne against the decision of Stroud District Council.
 - The application Ref S.16/1776/FUL, dated 9 August 2016, was refused by notice dated 1 December 2016.
 - The development proposed is replacement of four park homes with four permanent dwellings.
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Decision

1. I allow the appeal and grant planning permission for the replacement of four park homes with four permanent dwellings at St Joseph's Travellers Park, 1 Hiltmead Lane, Moreton Valence, Nr Gloucester GL2 7NQ in accordance with the terms of the application, Ref S.16/1776/FUL, dated 9 August 2016, subject to conditions 1) to 5) on the attached schedule.

Main Issues

2. Based on the reasons for refusal, subsequent events and discussion at the Hearing, the main issues are:
 - The effect of the proposals on the supply of gypsy and traveller pitches to meet the identified need.
 - The effect of the proposals on the aims of Local Plan policies on replacement dwellings and design.
 - Whether there are other considerations that should be weighed in the balance and the weight to be afforded them.

Reasons

The Supply of Sites

3. The site is a privately run facility for gypsies and travellers and the owners, the Hearne family, exercise what is acknowledged to be effective control through living on the site. The Council's first reason for refusal was on the basis that each plot was occupied by a caravan and that replacement with a permanent dwelling would reduce the accommodation available to meet the need for gypsies and travellers.

4. Subsequently, and following a visit from the Council, an application was made for a Certificate of Lawfulness with regard to Plots 1 to 3 not being caravans by reason of their size, and that they should be treated as dwellinghouses. The day before the Hearing the Council issued a Certificate (Ref; S.17/1924/CPE) to that effect. It was evident at the appeal site inspection that due to the addition of porches, conservatories and other items, together with the degree of connection at ground level, the structures would not be capable to being moved as required in the definition of a caravan, and that they exceed the maximum sizes set out in the Caravan Sites Act 1968 as amended. As a result the Council agreed that the three plots should not be counted as being available as gypsy and traveller pitches.
5. Plot 4 was not included in the application for a Certificate, and was stated to be a less clear-cut case. In the event the Council conceded that due to the approvals having been given for additional pitches on the appellant's land to the north of Hiltmead Lane and also to the east of the present site, the loss of Plot 4 in addition to Plots 1 to 3 would not adversely affect the supply of pitches within the District, and effectively withdrew this reason for refusal.
6. On the evidence available and having seen the progress being made in setting-out the new pitches and their access, that view is concurred with now. The appeal proposals would not conflict with Core Policy CP10 of the 2015 Local Plan, which states that the Council will safeguard existing authorised pitches for gypsy, traveller and travelling showpeople provided there remains a need.

Replacement Dwelling Policy

7. It was agreed that the proposals should be considered against the requirements of Policy HC5 on replacement dwellings outside settlement boundaries, as here, and Policy ES12 on design. Reference was also made to section 7 of the National Planning Policy Framework on requiring good design, including paragraph 56 which states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
8. Policy HC5 states that a replacement dwelling outside defined settlement development limits will only be permitted where all of 4 criteria are met. The first requiring that the residential use has not been abandoned is met in the case of each of the 4 plots. The second requires the scale, form and footprint of the replacement dwelling to be smaller than or similar to the existing dwelling and the design is not to detract from the character or appearance of its surroundings. Criterion 3 provides for a minor enlargement but only to allow the dwelling to achieve a basic living standard and where the design does not detract from the character and appearance of the area. The final criterion is that the existing dwelling is not a caravan or mobile home. That last criterion is agreed through the issuing of the Certificate to be satisfied in respect of Plots 1 to 3, but the situation with regard to Plot 4 is to be determined as part of this Decision.
9. Looking first at the size requirements, the proposed dwellings would each be to an identical design and would be placed on the same part of the site as the present structures. Due to the plan size of the structures on Plots 1 to 3, the footprint occupied would be similar to the existing, although larger than that on Plot 4.

10. The proposals are 2 storey detached dwellings with a fully hipped pitched roof, and having a projecting 2 storey bay with a gable roof at the centre of the front elevation. As a result, the scale and form of the replacement dwelling would not be smaller than or sufficiently similar to the existing dwelling, as sought by criterion 2 of the policy. The present structures are single storey and have low pitched roofs, their form deriving from that of a caravan or mobile home. Whilst considerations were put forward of the need for additional accommodation to avoid older children having to share bedrooms, such need does not meet the further provision in criterion 3 for minor enlargement to achieve basic living standards. The enlargement proposed in each case is not minor and the present dwellings provide at least basic living standards, albeit not necessarily fully in tune with the occupier's requirements.
11. Both of these criteria include reference to the effect on the character and/or appearance of the area. The Council criticise the design as not responding sufficiently to the 'Severn Vale vernacular' and opportunity was taken after the site inspection to tour the area and to ascertain the nature of that style and its prevalence. Examples were found of older houses meeting the Council's description of brick walling, symmetrical openings about a central doorway, and low roofs over a dentil course of alternating projecting bricks. However, few examples were found of modern development incorporating those features, with recent housing near the school at Whitminster as an example of a different style.
12. The surroundings of the appeal site do not relate to other built form, that on the main A38 being some way to the west on the far side of the showpeople's yards, and farm buildings to the east being at a distance with intervening vegetation. The site and surroundings are flat and featureless, other than the walling, fences and other items introduced in support of the uses, since it was a sizeable airfield previously. The later M5 motorway is a distinctive feature to the east, beyond which is the site of a large waste incinerator building under construction. Within that environment, there is not a pressing need for any new building to be of a particular style, and this is a case where the advice in paragraph 60 of the Framework is appropriate; decisions should not attempt to impose architectural styles and particular tastes, as there is no need to promote local distinctiveness, and none in place near enough to need reinforcing.
13. The visibility of the site from viewpoints and hence receptors is limited, partly due to the flat topography but also due to the intervening fences, hedges and walls, as well as the items in place on the various yards and pitches. The proposed four houses would introduce their own aesthetic and their non-linear placement on the site would appear attractive and not regimented, despite their identical design. There may be opportunity for variety in the materials secured by condition. As a result it is concluded that all 4 plots would satisfy the requirements not to detract from the character and appearance of their surroundings and the wider area, but that due to their increased size over the structures to be replaced, the letter of criteria 2 and 3 are not met, the degree of failure being greater in the case of Plot 4.
14. Whilst the Certificate of Lawfulness means that Plots 1 to 3 are agreed to have met criterion 4 on not being a caravan, that agreement does not extend to Plot 4. The structure seen at the site inspection had the appearance of a mobile home, and had none of the additions evident at the other plots. The size

measured at the inspection of 6.15m wide by 12.3m long is within the 6.8m by 20m permitted for a double unit under the Caravan Sites Act 1968 as amended. The home appears to have been delivered in two pieces that have been fixed together and would be capable of unfixing if necessary, and the internal clear height appears to be within the permitted 3.05m at the apex. There is a cosmetic skirt around the perimeter which matches the cladding, but inspection showed that this could be removed to allow the unit's re-location. There is a concrete slab visible which indicates that the structure sits on the ground rather than being built off it. On the evidence available, it is concluded that the structure on Plot 4 should be regarded as a caravan or mobile home and hence replacement would be contrary to criterion 4 of Policy HC5.

15. To conclude on the Local Plan policies, all 4 proposed replacement dwellings would fail to accord with the letter of Policy HC5 criteria 2 and 3 due to the resulting increase in size, although there would be no identifiable harm to the character and appearance of the area, a requirement in each criterion. As a result the proposals would accord with Policy ES12 on the quality of design, as well as the aims of the Framework in that respect. The proposal for Plot 4 would in addition fail to satisfy the fourth criterion of Policy HC5 due to having been found to fall within the definition of a caravan.

Other Considerations

16. It is clear from the supporting text to Policy HC5 that the appeal proposal does not fall within the main type of replacement dwelling that the policy seeks to control. The site's situation is unusual and would not occur elsewhere in the Council area, being an extensive gypsy and traveller site, with permissions in place for further expansion. In particular it is the relationship of the promoters of the scheme to the gypsy and traveller use and the history of their involvement with the site that sets this proposal apart from much of what Policy HC5 envisages and was devised to control.
17. The father of the present appellant is the occupier of Plot 1 and it was he who took over the running and ownership of the site from the Council and still carries out functions to ensure the smooth operation of the site. His family occupy the other three dwellings and each has specific duties, including cover for periods of absence. The work appears to include the need for out-of-hours attendance when things go wrong and they have a good working relationship with local trades-people and the police. It is clear that the site is run effectively and this must be in no small measure due to the 24 hour on-site presence of the family members.
18. The Council point out that the use does not accord with any of the exceptions in Policy CP15, such as being in support of farming or forestry. The first bullet point of paragraph 55 of the Framework provides for a new permanent dwelling in the countryside 'such as' the essential need for a rural worker to live permanently at or near their place of work in the countryside. A gypsy and traveller site is permissible in the countryside as provided for in Policy C of Planning Policy for Traveller Sites. Whilst not backed by a Local Plan policy, weight attaches to the need for permanent attendance on the site as a rural enterprise.
19. More specifically, Planning Policy for Traveller Sites states the Government's overarching aim 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 community. The efficient running of the site does ensure the continuance of the nomadic way of life, with a safe and secure home base from which to travel whilst those staying at home can ensure access to education for the children and health support for the family. Significant weight attaches to the work that the appellant and his family do and the effort they put into running the site.

20. The Council characterises the application for four-bedroom houses as being what the appellant 'wants' rather than what they 'need', but the present accommodation, particularly with the un-extended Plot 4, is cramped. To ensure the continuity of effort on the site it is reasonable to provide for the future generation to learn the work and take a more active role, in a similar way to the appellant and his generation having done from their father. It is reasonable therefore that sufficient accommodation be provided for each part of the wider family to live comfortably together.
21. In order to weigh in the balance the personal circumstances of the family members and the work they do for the good of the gypsy and traveller community, there is a need to ensure that the occupation of the houses would be tied to the running of the site. Such an undertaking would be akin to that expected in the case of an agricultural occupancy restriction, a use where a permanent dwelling is permissible other than for trial periods to test viability, which is not the case here. The appellant submitted a completed Undertaking dated 23 June 2017 which provides for the houses to be occupied only by persons employed or responsible for the management of the caravan park.
22. There would be provision for a widow or widower to remain, but in answer to the question from the Council as to those last employed there, but having retired, similar to an agricultural occupancy restriction, the appellant said that retirement would not occur in the conventional meaning of the term. Having regard to the father's continued activity in the running of the site, this appears entirely reasonable.
23. The provisions of the Undertaking satisfy the tests in paragraph 204 of the Framework, being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. As a result, full weight can be accorded it in this Decision.
24. The planning balance has on the one side a failure to accord with the wording of Policy HC5 with regard to the size of the proposed replacement dwellings and the finding that Plot 4 is occupied by a caravan. On the other side, there is the fact that no harm has been identified through the development to either the character and appearance of the area or other matters of importance such as the supply of gypsy pitches; the provision of control and management of the extended site, providing more pitches to meet the identified need; the benefit of permanent and suitable accommodation to further the nomadic way of life of gypsies and travellers; the safe and efficient running of the site for the benefit of the settled community in saving public money through solving problems at source; and the opportunity to control the appearance of the dwellings through planning conditions.
25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be

made in accordance with the plan unless material considerations indicate otherwise. In the balance, whilst the proposal is not in full accordance with Policy HC5, albeit it accords with Policy ES12, the material considerations set out above indicate that permission should be granted subject to the control exercisable through the Undertaking.

Conditions and Undertaking

26. The Statement of Common Ground agreed conditions in addition to the standard commencement provisions. It is reasonable and necessary in view of the residential caravans on the site to limit the hours of construction of the dwellings and to seek a scheme to control dust. It is also necessary to seek further details of the materials to be used in the external surfaces of the buildings, to control the appearance of the development and its effect on the character and appearance of the area. Lastly, a condition is required detailing the drawings to which this permission relates, for the avoidance of doubt and in the interests of the proper planning of the area.
27. The need for and acceptability of the Undertaking has been discussed previously in this Decision; it is essential to make the development acceptable in planning terms.

Conclusions

28. Whilst not in full accordance with the relevant Local Plan policy on replacement dwellings, there would be no harm to the character and appearance of the area and significant benefits to the future running of the site have been identified. The effective management of the site carries significant weight in promoting the nomadic way of life of gypsies and travellers, whilst providing a safe and attractive base for children's education and the welfare of traveller families, all as sought in Planning Policy for Traveller Sites. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

J Cooper	Principal Planning Officer Stroud District Council
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FOR THE APPELLANT:

P Fong	Hunter Page Planning
E Penkett	Hunter Page Planning
J Hearne	Appellant
J Hearne	Family
V Hearne	Family

DOCUMENTS

Document	1	Certificate of Lawfulness Ref S.17/1924/CPE dated 2 October 2017 submitted by the Council
Document	2	Local Plan Policy HC5 Replacement Dwellings submitted by the Council

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Ground Floor Plan, First Floor Plan, Front Elevation, Side Elevations, Rear Elevation and Proposed Block Plan all received by the Local Planning Authority on 09 August 2016.
- 3) No development shall commence until details and samples of the materials to be used in the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development is to be carried out only in accordance with the approval given.
- 4) No development shall commence until a scheme of measures to control the emission of dust and dirt during construction has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be adhered to throughout the construction period.
- 5) No construction site machinery or plant shall be operated, no process carried out and no construction related deliveries taken at or dispatched from the site except between the hours 08:00 and 18:00 on Mondays to Fridays, between the hours of 08:00 and 13:00 on Saturdays and not at any time on Sundays, Bank or Public Holidays.