



Appeal Decision

Hearing held on 5 March 2013

Site visit made on 5 March 2013

by Gareth Symons BSc Hons DipTP MRTPI

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

Decision date: 9 May 2013

Appeal Ref: APP/V3310/A/12/2179189

Land at Tapmoor Road, Moorlinch, Somerset

- 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 Richard Arthurs against the decision of Sedgemoor District Council.
 - The application Ref: 35/12/00001, dated 22 December 2011, was refused by notice dated 28 March 2012.
 - The development proposed is change of use of the land for residential purposes for occupation by one gypsy family living in one mobile home, including the stationing of one touring caravan and use of the existing stables as a dayroom.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the land for residential purposes for occupation by a gypsy family living in one mobile home, including the stationing of one touring caravan and use of the existing stables as a dayroom on land at Tapmoor Road, Moorlinch, Somerset, in accordance with the terms of the application Ref: 25/12/00001, dated 22 December 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The hereby permitted development shall not be carried out except in complete accordance with the following approved plans: 1:1250 Site Location Plan; Layout and Elevations - Existing Stable to be Converted.
 - 3) 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.
 - 4) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static caravan) shall be stationed on the site at any time.
 - 5) No caravan shall be brought onto the site until details of its intended siting have been submitted to and approved in writing by the local planning authority. The caravans shall only be in the approved locations.
 - 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

- 7) No commercial activities shall take place on the land, including the storage of materials.
- 8) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include proposed means of enclosure and hard surface materials. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the residential occupation of any part of the site or in accordance with a programme agreed with the local planning authority before any development takes place.
- 9) No development shall take place until a schedule of landscape maintenance for a minimum period of five years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification) no other means of enclosure shall be erected other than those proposed in the approved landscape works.
- 11) No development shall take place until details of the surfacing of the access into the site have been submitted to and approved in writing by the local planning authority. The access shall be surfaced in accordance with the approved details before the site is occupied for residential purposes and it shall be retained as such thereafter.
- 12) No development shall take place until details of surface water disposal have been submitted to and approved in writing by the local planning authority. The approved surface water disposal scheme shall be provided before the site is first occupied for residential purposes and it shall be retained as such thereafter.
- 13) No development shall take place until details of vehicle parking and manoeuvring areas, including their surfaces, within the site have been submitted to and approved in writing by the local planning authority. These areas shall be provided in accordance with the approved details before the site is first occupied for residential purposes and they shall be retained and kept available for their intended purposes thereafter.
- 14) There shall be no obstruction to visibility greater than 900mm above the adjoining road level forward of lines drawn from 2.4 back from the road edge on the centre line of the access and extending to the extremities of the site frontage. Such visibility shall be fully provided before the site is first used for residential purposes and it shall be retained as such at all times thereafter.
- 15) Any entrance gates shall be set back at least 8m into the site from the nearside road edge and they shall be hung to open inwards.

Preliminary Matter

2. The description of the proposed development on the application form does not refer to the change of use of the land for residential purposes. It needs to as the stationing of caravans on land does not necessarily constitute development. The residential use of a caravan is only conveyed if that is the lawful use of the land. This was raised at the hearing and the parties agreed that it would be appropriate to amend the description accordingly. That is what I have set out in the banner heading above. This matter does not cause any prejudice to the appeal parties or to persons who commented on the application as it is clear they all understood the use was for residential occupation by a gypsy family.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area and whether the appeal site is in a reasonably sustainable location.

Reasons

Character and Appearance

4. It is accepted by the Council that the nature of Gypsy sites, and other circumstances associated with them, mean that in Sedgemoor they are all outside settlement boundaries. The relevant development plan policies require development in the countryside to be strictly controlled and to maintain or enhance the environment.
5. Despite what the Council alleges, Tapmoor Road is not largely devoid of man made structures. In the next but one field there are several farm buildings. There is also a mobile home there, but the Council has since confirmed there is no record of any planning permission for this and so I will not take it into account when making my decision. Nevertheless, there are also a variety of other buildings such as houses and barns further back along the road towards Moorlinch. I would describe the character of the area as rural with sporadic development. There are boundary hedges either side of Tapmoor Road punctuated by field gates typical of many rural roads in the countryside.
6. The character of the appeal site itself is consistent with the sporadic development description because it has a stable block on it that was granted planning permission by the Council on 3 May 2005 (Ref: 35/05/00001). This also required the lay-by and the first 6m of the access into the site from the road edge to be finished in concrete. The rest of appeal site is about one third of a thin field that stretches back from the road. The side and rear boundaries of the field have well established hedgerows with tall trees. The appeal site frontage is relatively narrow and the land is slightly elevated above the road.
7. The stable block was granted planning permission for reasons different to those behind the appeal proposal. The conditions imposed on the planning permission are noted and so too is a previous unauthorised use of the site which has now ceased. Nevertheless, the permission established the principle that the shape and form of a stable on the appeal site is acceptable. Static caravans in particular often have a similar profile. The stable block is also close to the road and it was discussed at the hearing how the appellant's small touring caravan could be tucked in behind the stable parallel with the side hedge. In this position it would hardly be visible from the road either through

the gate or when approaching the appeal site from Moorlinch. Coming in the other direction the caravan would be screened by the appeal site trees and hedge and the intervening roadside hedge. The mobile home would be larger, but if it was close to the stable and the touring caravan, towards one corner of the site, this would limit its overall visual impact. With trees and hedges out in leaf the caravans would be screened from view even more. The caravans would not be conspicuous even if they were a pale colour.

8. The domestication and hard surfacing of the land that would ensue is noted. However, domestic curtilages and the types of structures and paraphernalia associated with these close to Tapmoor Road are not unusual in the area. Views into the site of these would in any event be limited and some new planting is proposed that would lessen the visual presence of the site's domestication even further. That landscaping would include taking away some of the close boarded fencing at the entrance to the site and replacing it with a post and rail fence more appropriate with the rural surroundings.
9. The appeal scheme would be in keeping with the character and appearance of the area and its visual impact on the locality would be very limited. The proposal would therefore accord with the countryside and environment protection aims of policy STR6 from the Somerset and Exmoor National Park Joint Structure Plan Review (SP), policies STR3 and CNE6 from the Sedgemoor District Local Plan and policies P6, D8 and S14 from the Sedgemoor Core Strategy (CS). I also find that the terms of paragraph 23 from *Planning Policy for Traveller Sites* (PPTS) would be met.

Reasonably Sustainable Location

10. Policy 36 from the SP and policy D8 from the CS both require sites for Gypsies to be within a reasonable distance of local services and facilities, including public transport. That does not include access by foot. The nearest settlement providing a reasonable range of facilities, such as a school, is Ashcott about 5 km away according to the local highway authority, or about 6-7 minutes in a vehicle. That is a reasonably sustainable distance in my view. Furthermore, the appellant's eldest child attends the school in Ashcott and each day does the journey by public transport which leaves from a bus stop in Moorlinch. This is also a public service that runs five times a day. That situation would remain unchanged if the appellant and his family moved to the appeal site from the house they currently occupy in Moorlinch. The same would apply for the appellant's middle child when he starts at school in September 2013. He currently attends a pre-school nursery in Ashcott for three days a week. However, the appellant's partner only takes him on one of those days because on the other two days she has lift sharing arrangements with mothers of other young children who live close by.
11. There are some limited services closer to the appeal site than Ashcott. There is a public house in Moorlinch, so for meeting people and socialising locally the distance involved would be short. There is also a shop and post office in Stawell. I was told that there is currently a planning application to convert the shop/post office into residential accommodation and so this facility may not be available for much longer. However, there is a campaign locally that might see the local community take over the running of the shop. The retention of this facility cannot therefore be ruled out.

12. In addition the appeal site already has the potential to attract vehicular traffic to and from it by persons coming to attend horses kept in the stable. It was accepted that that attendance would on average be twice daily. The trips associated with the proposed residential use needs to be measured against this background. Given the circumstances also outlined above, the increase in journeys would not be substantial.
13. The appeal site is in a reasonably sustainable location and it would meet the Gypsy site location aims of SP policy 36, CS policy D8 in particular, and paragraph 11 from the PPTS.

Other Matters

14. Highway safety was not a concern of the local highway authority subject to the imposition of certain conditions referred to below. There is no evidence that highway safety would be affected by the appeal scheme. The matter of the stable not being available for horses any more is not an issue for me to consider. If any replacement stable was needed that would also be a matter for consideration away from this appeal. The planning permission granted is based on the plan submitted for the stable. Any other works that the appellant may wish to undertake to this building would either be development requiring planning permission or it would be subject to other controls. Any other changes would thus be considered by the Council at that time. I have imposed restrictions on the number of caravans and prevented any commercial activity.
15. Some objectors have questioned the need for the site given that the appellant and his family live in a house in Moorlinch. From the evidence provided I am satisfied that the appellant and his family have Gypsy status. The Government's overarching aim as set out in the PPTS is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life while respecting the interests of the settled community. The appellant has strong local connections to the area and he clearly wishes to maintain his traditional way of life and bring his children up in the same way. His partner recognises and supports this desire as well. The appellant struggles with living in a house which is alien to his culture and this has brought pressures on the family. With this background in mind, and the acceptance by the Council that there is an unmet need for sites in Sedgemoor, there is a strong case for allowing this site which, in any event, meets the requirements of the relevant development plan policies.
16. All other matters have been considered, including the detailed comments made by Moorlinch Parish Council, but none outweigh the above findings.

Conditions

17. I have considered the Council's suggested conditions in view of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions* and the discussions at the hearing. Condition 2 is needed for the avoidance of doubt and in the interests of proper planning. In the list of plans specified I have omitted plan ref: 1194/01 that was submitted with the application. This shows a layout of the site different from that shown in the proposed landscaping plan. At the hearing it was discussed how the site layout might be further amended. Therefore the matter of site layout is covered in some of the other conditions.
18. Condition 3 is appropriate in view of the special accommodation needs of Gypsies and Travellers. Conditions 4 to 10 are necessary to control the scale

of the development and to safeguard the character and appearance of the area.
Conditions 10 to 15 are needed for highway safety reasons.

Conclusion

19. It is concluded that the appeal should be allowed.

Gareth Symons

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr A Murdoch	Planning Consultant
Mr R Crandon	TDA
Mr R Arthurs	Appellant
Miss K Bowden	Appellant's partner

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Arnold	Senior Planning Officer, Sedgemoor DC
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DOCUMENTS

Doc 1 Copy of planning permission Ref: 35/05/00001