

**Wiltshire Council
Strategic Planning Committee
11th September 2019**

There are no Planning Appeals Received between 07/06/2019 and 30/08/2019 relating to Decisions made at Strategic Committee

Planning Appeals Decided between 07/06/2019 and 30/08/2019 relating to Decisions made at Strategic Committee

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
17/01798/FUL	Valley View Dean Road East Grimstead Salisbury, Wiltshire SP5 3SD	GRIMSTEAD	Change use of land for the stationing of one mobile home, one touring caravan, and a day/utility room building for residential purposes, together with the formation of hardstanding, and landscaping and erection of maximum 2.8 fence (retrospective)	SPC	Hearing	Approve with Conditions	Allowed with Conditions	13/08/2019	Appellant Applied for Costs – Partial Award Allowed
18/03816/WCM	Northacre Renewable Energy Stephenson Road Northacre Industrial Estate, Westbury Wiltshire, BA13 4WD	WESTBURY	Revision of the layout and design of Advanced Thermal Treatment Facility permitted under consent 14/12003/WCM	SPC	Inquiry	Approve with Conditions	Withdrawn	06/08/2019	



Appeal Decision

Hearing Held on 24 July 2019

Site visit made on 24 July 2019

by Rory Cridland LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Appeal Ref: APP/Y3940/W/18/3215416

Valley View, Dean Road, East Grimstead, Sculsbury SP5 3SD

- 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 Ms Nicola Terry against the decision of Wiltshire Council.
 - The application Ref 17/01798/FUL, dated 23 February 2017, was refused by notice dated 19 July 2018.
 - The development proposed is change of use of land for the stationing of one mobile home, one touring caravan, and a day/utility room building for residential purposes together with the formation of hard standing, and landscaping and erection of Max 2.8m fence and stables.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for the stationing of one mobile home, one touring caravan, and a day/utility room building for residential purposes together with the formation of hard standing, and landscaping and erection of Max 2.8m fence and stables at Valley View, Dean Road, East Grimstead, Sculsbury SP5 3SD in accordance with the terms of the application, Ref 17/01798/FUL, dated 23 February 2017, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. Part of the development has already been carried out with the stationing of the mobile home on the land, the erection of fencing and the change of use of the land for residential purposes. I have dealt with those parts of the application on a retrospective basis.
3. Following the submission of the original application, the description of development was amended. In addition, the erection of stables in the north western corner of the site was added to the application. However, the stables were not included in the amended description. The Council confirmed at the hearing that they had included the stables as part of their consideration and agreed that the description should be amended. I concur and, accordingly, have used the agreed wording above.

Application for Costs

4. An application for costs was made by Ms Nicola Terry against Wiltshire Council. This application is the subject of a separate Decision.

Gypsy Status

5. The Council accepts that the appellant meets the definition of gypsy and traveller as set out in Annex 1 of the Planning Policy for Traveller Sites (2015) (PPTS). Similarly, there is no dispute about the lack of availability of alternative accommodation.

Planning Policy Background and Main Issues

6. The PPTS requires local planning authorities to identify a five year supply of specific deliverable sites to meet locally assessed need. In addition, it requires the identification of a supply of specific developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15.
7. The Council accepts that it cannot currently demonstrate the required 5 year supply of specific deliverable sites. Furthermore, it estimated at the hearing that there is currently an unmet need for approximately 46-48 pitches in the area. While I am mindful that these figures are out of date and may not be particularly robust, all parties agree that there is a significant need that is not being met. Furthermore, the Council has not identified any allocated sites and confirmed at the hearing that it expects this outstanding need will be met by private pitches. Based on the evidence before me, I have no reason to conclude otherwise and as such have not considered these matters further
8. It is against this backdrop that Policy 47 of the Wiltshire Core Strategy¹ (WCS) seeks to make provision for the recognised need for gypsy and traveller sites. It makes clear that proposals for new pitches will only be granted where there is no conflict with other planning policies and where no barrier to development exists. New development should be situated in sustainable locations with preference given to previously developed land or vacant or derelict sites in need of renewal.
9. It goes on to identify nine general criteria against which proposals will be judged. The Council's reasons for refusal focused on four of these criteria. In particular, that it considered the development fails to provide safe and convenient pedestrian access (criterion (ii)), is not located within a reasonable distance of a range of local services and community facilities (criterion (v)), has an unacceptable impact on the character and appearance of the surrounding landscape (criterion (vi)), and is not appropriate to the scale and character of nearby East Grimstead (criterion (viii)). These concerns are echoed by the Grimstead Parish Council ("the Parish Council").
10. Consequently, I consider the main issues are:
 - (i) whether the appeal site offers an acceptable location for the proposed development having regard to national and local planning policy;
 - (ii) the effect of the proposed development on the character and appearance of the surrounding landscape;
 - (iii) whether the development provides safe and convenient pedestrian access; and

¹ Wiltshire Core Strategy (adopted January 2015).

- (iv) whether the development is appropriate to the scale and character of the surroundings, including East Grimstead.

Reasons

Location

11. East Grimstead is a Small Village as defined by the Council's settlement strategy. It has a limited range of services and facilities which include a church, village hall/reading room. WCS Core Policy CP1 limits development in these areas to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. Furthermore, WCS Core Policy CP2 limits such development to infill within the existing built up area and, in principle, supports development which seeks to meet local housing needs.
12. The appeal site itself is located on the outskirts of the village, around 1.2km from East Grimstead and outside any recognised development boundary. It comprises an area of around 0.3 hectares and forms part of a larger agricultural field. It is set back from the highway and accessed via a shared track which also forms part of public bridleway Grimm22. To the west is neighbouring Dillon's Farm while to the east is a development known locally as 'the encampment'. To the south is open countryside.
13. The Council accepts that the site is not isolated. However, it is concerned that it is not located within a reasonable distance of a range of local services and community facilities and as such will place heavy reliance on the use of the private car. The site is clearly near to the settlement of East Grimstead which I accept has a limited number of local services and community facilities. However, while I note the Council's argument, advanced at the hearing, that criterion (v) of WCS Core Policy 47 requires East Grimstead itself to offer a range of local services and community facilities, I do not agree. Instead, I concur with the approach taken by the Inspector on the neighbouring Dillon's Farm site² that those services and facilities need not necessarily be within the nearest settlement.
14. Although East Grimstead itself offers only a limited number of services and facilities, there are a variety of services within a reasonable distance of the site including local schools and health services, many of which are accessible by public transport. While I note the concerns raised by both the Council and the Parish Council in relation to the limited bus service, there is no policy requirement for sites to be located on regular bus routes and I note that the bus service available would enable occupiers to access services and facilities in West Dean as well as the large number of services and community facilities in Salisbury and other nearby settlements.
15. Furthermore, I note that the surrounding area forms part of a national cycle network and it is clear from the evidence that there are also opportunities to access other nearby settlements, including White Parish, on foot via the public rights of way network. I am also mindful of the contribution to which traditional lifestyles can make towards sustainability in general, particularly in limiting the number of travel to work journeys.

² APP/Y3940/A/14/2211452.

16. In addition, the WCS specifically provides for some modest development in the Small Villages to respond to local needs. This includes the identified need for gypsy and traveller sites. I also note the conclusions of the Inspector in the Dillon's Farm Appeal who came to the view that this was a sustainable location for a gypsy site which would not undermine the settlement strategy for the area. I see no reason that the present site would not be equally acceptable in this respect.
17. Consequently, I find the proposal would be located near to an existing settlement and would be within a reasonable distance of local services and community facilities. As such, I find it accords with criterion (v) of WCS Core Policy 47.

Effect on the landscape

18. The appeal site is situated in a locally designated Special Landscape Area (SLA). WCS Core Policy 51 and Saved Policy C6 of the Salisbury District Local Plan 2011³ (SDLP) seek to ensure that development protects, conserves and where possible enhances landscape character and maintains the character of the SLA. In addition, criterion (vi) of WCS Core Policy 47 favours new gypsy and traveller sites which do not have an unacceptable impact on the character and appearance of the landscape and are sensitively designed to mitigate any impact on their surroundings.
19. The Council's concerns centre on the effect the proposal would have on the SLA. However, it was confirmed at the hearing that no particular viewpoints had been identified from which the proposal would be visible other than from within the site itself. Indeed, the site is generally well hidden within the landscape. It is very well screened along its northern boundary with Dean Road and there is little intervisibility with Dillon's Farm to the west. The undulating topography of the land to the south provides a considerable amount of screening in views from the south and east including from the public bridleway.
20. I acknowledge the site falls within an area characterised as being very rural, isolated and peaceful in character with sparse human settlement, and note the suggestion, made at the hearing that development within the SLA is, by definition, harmful. However, a large section of the district is covered by the SLA designation and in view of its restricted size and visibility, its impact on the character of the wider landscape is limited.
21. Consequently, I consider the development to have been sensitively positioned so as not to have an unacceptable impact on the character or appearance of the surrounding landscape or the SLA. As such, I find no conflict with criterion (vi) of WCS Core Policy 47, WCS Core Policy 51, or Saved Policy C6 of the SDLP.

Pedestrian safety

22. The appeal site is accessed off Dean Road, a rural country road with no pavement or street lighting and where the speed limit is 60mph. The highway authority accepts that adequate visibility can be achieved and has raised no objection to the proposal on safety grounds.

³ Adopted June 2003.

23. The Council accepts that Dean Road is not heavily trafficked. This accords with the appellant's traffic survey as well as my own on-site observations. The Council has, however, raised concerns with pedestrian safety in accessing the site - pointing to the lack of pavements and street lighting in the surrounding area.
24. I noted during my site visit that there was an absence of footways and street lighting along the majority of Dean Road and throughout much of East Grimstead and the surrounding area. The absence of such features is often a characteristic of rural roads. These rural lanes form part of a national cycle network and I observed numerous signs directing walkers to interesting routes some of which involve navigating these sections of highway.
25. However, the Council has not provided any evidence that there is an existing risk to pedestrian safety either at the site access or more widely. Likewise, there is no evidence which would indicate that use of the site by the appellant has had any material increase in risk to pedestrian safety at the site access.
26. In the absence of evidence which would substantiate the Council's position, I find that the proposal would not result in an increased risk to pedestrian safety and find no harm in this respect. As such, I find the development accords with criterion (ii) of WCS Core Policy 47.

Whether the proposal is appropriate to the scale and character of East Grimstead.

27. Criterion (viii) of WCS Core Policy 47 favours development that is appropriate to the scale and character of its surroundings and existing nearby settlements. Similarly, the PPTS advises that sites in rural areas should respect the scale of, and not dominate, the nearest settled community.
28. The permission sought is for a single pitch. East Grimstead itself is classified as a Small Village and has around 70 households. Accommodating an additional gypsy and traveller pitch in this location would not be inappropriate to the scale and character of its surroundings and would not have a dominant effect on that nearby settlement.
29. Consequently, I find that the development is appropriate to the scale and character of its surroundings and does not dominate the nearest settled community. As such, I find no conflict with WCS Core Policy 47 or the PPTS in this respect.

Other Matters

30. Both the Council and the Parish Council have raised concerns around the cumulative impact that granting permission for an additional pitch would have on the local community when taken with other nearby gypsy and traveller sites. However, the Council confirmed at the hearing that the neighbouring site known as 'the encampment' was not a gypsy and traveller site and should not form part of any such assessment. The remaining sites identified are limited in both size and number. There is no robust evidence that even when taken with the appeal site, they have any dominant effect on the nearby settlement. While I note the various concerns put forward by the Council and the Parish Council, there is no evidence before me which would indicate that the addition of a single pitch at this location would have any material impact on East Grimstead.

31. I have considered the various comments made by both the Parish Council and the South Wiltshire Campaign for the Protection of Rural England. However, for similar reasons to those already set out above, they do not provide sufficient reason to withhold planning permission in the present case.

Planning Balance

32. I have found above that the proposal would accord with WCS Core Policies 47 and 51 and Policy C6 of the SDLP. Furthermore, it is clear that there is a considerable unmet need for gypsy and traveller sites and that private sites, such as the appeal site, will play a significant part in meeting this need.

33. Consequently, I consider the development would accord with the development plan when taken as a whole as well as with the guidance set out in the PPTS.

Conditions

34. I have had regard to the various planning conditions suggested by the Council. A condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty. Likewise, a condition limiting occupation of the site to gypsies and travellers is necessary in view of the permission being applied for.

35. Similarly, conditions restricting the number of caravans that can be situated on the land and restricting commercial activities and the storage of large vehicles is necessary in order to ensure that the character and appearance of the surrounding area is preserved.

36. A condition restricting the burning of manure or other material derived from the keeping of horses on the site is necessary in order to protect neighbouring amenity. A condition securing the provision of visibility splays is necessary in the interests of highway safety.

37. I do not, however, consider a landscaping condition is necessary as there is already a considerable amount of hedgerow and boundary planting along the eastern boundary with Dean Road. Similarly, I do not consider the suggested condition which seeks to guard against the discharge of surface water onto the highway is necessary in view of the disused canal between the site and the highway. Furthermore, the Council confirmed at the hearing that a condition on surfacing was not considered necessary in view of the limited evidence of existing problems at this shared access.

Conclusion

38. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing Nos: 16-823-001 Site Location Plan; 16-823-003 Proposed Site Plan; 16-823-004 Rev A Proposed Elevations, Floor Plan of the Utility/Day Room; 16-823-005 Fence Panel Detail; 16-823-005 Proposed Stable Block, Elevations, Section. Floor Plan and Roof Plan.
- 2) The site shall not be occupied by persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites (2015).
- 3) No more than 2 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/mobile home) shall be stationed on the land at any time.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 6) No burning of manure or other material derived from the keeping of horses or livestock in the stables hereby approved shall take place on the site or on the land edged blue on Drawing No: 16-823-001.
- 7) Within two months of the date of this decision, the visibility splays shown on drawing number 020.0308.001 (Proposed Visibility Splays) shall have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall be kept free of obstruction at all times thereafter.

END OF SCHEDULE

APPREARANCES

FOR THE APPELLANT:

Ms Nicola Terry
Ms Alison Heine
Mr Paul Butler

Appellant
Planning Agent
Friend of Appellant

FOR THE COUNCIL

Mr Richard Hughes
Mr Joe Richardson
Mr Warren Simonds

Team Leader - Planning
Planning Officer
Consultant

Documents submitted at the hearing:

1. Case officer report for application reference 16/05231/FUL dated 07/07/2016 (Land North of Broken Cross Bridge, Winterbourne Earls, Salisbury) (Ref A.2).

END



Costs Decision

Hearing Held on 24 July 2019

Site visit made on 24 July 2019

by Rory Cridland LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Costs application in relation to Appeal Ref: APP/Y3940/W/18/3215416 Valley View, Dean Road, East Grimstead, Sculsbury SP5 3SD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Nicola Terry for a full award of costs against Wiltshire Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the change of use of land for the stationing of one mobile home, one touring caravan, and a day/utility room building for residential purposes together with the formation of hard standing, and landscaping and erection of Max 2.8m fence and stables.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

The submissions for Ms Nicola Terry

2. The application for costs was made in writing prior to the hearing. It is not therefore necessary to repeat the appellant's case in any detail. Nevertheless, the appellant essentially argues that the Council has failed to substantiate its reasons for refusal, has failed to determine similar cases in a consistent manner and has prevented or delayed development which, having regard to its accordance with the development plan, national policy and other material considerations should clearly have been permitted.
3. In addition, the appellant made oral submissions at the hearing which drew attention to the fact that there was no one present from the Council's Strategic Planning Committee (SPC) to explain why members had reached the conclusions they had. Furthermore, it was argued that members of the SPC had misunderstood or misinterpreted the development plan and national guidance and had ignored the conclusions of the Inspector on the neighbouring site, Dillon's Farm.

The response by Wiltshire Council

4. The Council's response was also made in writing prior to the hearing. In summary, the Council disputes that it has acted unreasonably or failed to substantiate its reasons for refusal. Furthermore, it argues that it has not prevented or delayed development which should clearly have been permitted and argues that it has determined the application in a reasonable manner,

taking account of the development plan, national policy and all relevant material considerations.

Reasons

5. The Planning Practice Guidance (“the PPG”) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Furthermore, it indicates that Local Planning Authorities will be at risk of an award of costs being made against them if, amongst other things: (i) they fail to produce evidence to substantiate each reason for refusal on appeal; (ii) they fail to determine similar cases in a consistent manner; or (iii) where they delay development which, having regard to its accordance with the development plan, national policy and any other material considerations should clearly be permitted.
6. A single reason for refusal was set out in the Council’s decision notice; that being a failure to accord with the requirements of Core Policy 47 of the Wiltshire Core Strategy (WCS)¹. However, in formulating its reason for refusal the Council pointed to four distinct criteria set out in that policy which they considered the application failed to meet.
7. My decision makes clear that I do not agree with the Council on any aspect. However, their concerns regarding landscape impact are matters of judgement and members are entitled to reach their own conclusions. Furthermore, I acknowledge that the lack of footway and street lighting would pose some, albeit small, risk to pedestrians seeking access to the site. I do not therefore consider the Council has acted unreasonably in raising these matters.
8. Nevertheless, the same cannot be said of the Council’s other concerns. The Council’s officers concluded that the site was in a sustainable location and provided reasonable access to services and facilities. This accords with the conclusions of the Inspector in an appeal on the neighbouring site, Dillon’s Farm². While the Council is not required to follow the advice of its professional officers, and each case should be considered on its own merits, if a different decision is reached by members, the Council has to demonstrate, on planning grounds, why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
9. In the present case, little evidence has been put forward by the Council to support the concerns raised in relation to location. No detailed arguments have been advanced which would explain why members took a different view to their officer’s or why the Council considered this site was materially different in terms of its access to services and facilities to the neighbouring Dillon’s Farm site or the other infill development permitted by WCS Core Policy CS2. In failing to address these matters as part of the appeal, I consider the Council has acted unreasonably.
10. Similarly, when considering whether the scale and character of nearby settlements would be affected, the Council’s argument was centred around the effect that the development had on East Grimstead when taken cumulatively with other existing gypsy and traveller sites located nearby. However, while both the PPTS and WCS Core Policy 47 require regard to be had to the impact

¹ Adopted 2015.

² APP/Y3940/A/14/2211452.

of such developments on nearby settlements, this does not include an assessment of the cumulative impact on existing settlements with other sites that already form part of the local community. While I acknowledge that the cumulative impact may be a valid consideration in cases where numbers are large, the Council acknowledged at the hearing that other pitches near to East Grimstead are few in number. It appears to me that the Council has imposed further requirements into criteria (viii) of WCS Core Policy 47 and the PPTS which are not supported by those policies or the present circumstances. This is a further example of unreasonable behaviour on the part of the Council.

11. Accordingly, even though I accept that in raising concerns in relation to the effect on the landscape and pedestrian safety, the Council has not acted unreasonably, it has nevertheless failed to substantiate its concerns in relation to location and the effect of the proposal on East Grimstead. Furthermore, in failing to address the conclusions of the Inspector in the neighbouring Dillon's Farm appeal, it has failed to determine matters consistently and in line with local and national policy. These are the sorts of unreasonable behavior which the costs regime is intended to discourage as, in this case, they result in the appellant having incurred wasted expense in having to appeal the decision.
12. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in contesting the Council's reason for refusal in so far as it relates to location and the effect of the proposal on East Grimstead, (including cumulative impact) is justified.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Ms Nicola Terry the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the Council's reason for refusal in so far as it relates to location and the effect of the proposal on East Grimstead, including cumulative impact.
14. The applicant is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Rory Cridland

INSPECTOR