



Appeal Decision

by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 13/05/2024

Appeal reference: CAS-02579-Z6S0Z2

Site address: Land South of Coed Y Ffarm, Felinfoel, Llanelli, SA14 8JB

- 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 John and Jo Smith and families against the decision of Carmarthenshire County Council.
 - The application Ref PL/04651, dated 6 September 2022, was refused by notice dated 21 December 2022.
 - The development proposed is the provision of two Traveller pitches to include a static caravan, touring caravan and a day room per pitch, relocation of the access point, two stable blocks and ecological improvements.
 - A hearing was held on 7 March 2024.
 - A site visit was made on 12 March 2024.
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Decision

1. The appeal is allowed and planning permission is granted for the provision of two Traveller pitches to include a static caravan, touring caravan and a day room per pitch, relocation of the access point, two stable blocks and ecological improvements at land South of Coed Y Ffarm, Felinfoel, Llanelli, SA14 8JB in accordance with the terms of application ref PL/04651, dated 6 September 2022, and the conditions set out in the schedule to this decision letter.

Procedural Matters

2. There is no dispute regarding the Gypsy status of the appellants and their families, and I am therefore satisfied that the definition at paragraph 3 of Welsh Government Circular 005/2018 'Gypsy, Traveller and Showpeople Sites' ("the Circular") has been met.
3. Since the determination of the planning application the Welsh Government has issued a revision to Planning Policy Wales (PPW), which includes changes that relate to Net Benefit for Biodiversity and Ecosystem Resilience (incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure). To ensure that the appeal submission accords with the requirements of PPW the appellants have submitted a Green Infrastructure Plan (GIP) and a Biodiversity Enhancement Scheme (BES) for the appeal site. The documents have been considered

by the Council who are satisfied they meet the requirements of PPW. I agree and, in accordance with the other submitted evidence, they will form the determination of this appeal.

Main Issues

4. The main issues are:

- Whether the proposed development conflicts with national and local policies designed to protect the countryside and promote sustainable development.
- The impact the proposed development would have on the character and appearance of the area; and
- Whether there are other material considerations that would justify granting planning permission, in particular the general need and supply of gypsy and traveller sites in the area and the personal circumstances of the appellants.

Reasons

National and local policies

5. The appeal site is located in the countryside on the northern fringe of Llanelli. Policies SP1 and GP2 of the adopted Carmarthenshire Local Development Plan (LDP) seeks to restrict development outside the defined settlement limits in order to prevent inappropriate development in the countryside. This approach accords with the requirements of PPW which seeks to ensure that all new building in the open countryside away from existing settlements or areas allocated for development is strictly controlled (paragraph 3.60).
6. However, in respect of Gypsy and Traveller sites, the Circular makes clear that sites in the countryside, away from existing settlements, can be considered if there is a lack of suitable sustainable locations within or adjacent to existing settlement boundaries (paragraph 39).
7. During the course of the Hearing the appellants explained that they had been searching for a site for a number of years, and despite having discussions with landowners, including the owner of the recently approved Gypsy and Traveller site at Llangennech, Llanelli, the appeal site was the only suitable site available. For its part the Council was unable to identify any suitable alternative sites but drew my attention to the emerging Replacement LDP which, when adopted, would allocate land for the development of 11 pitches.
8. Based on the evidence presented, I am content that no suitable alternative sites are currently available within the County to meet the needs of the appellants.
9. In light of this, I am of the view that the proposed development would be justified in the countryside and would accord with the objectives of Policies SP1 and GP2, PPW and Circular 005/2018.
10. With regard to sustainability, Policy H7(a) of the LDP seeks, amongst other things, to ensure that proposals for new Gypsy and Traveller sites are situated in locations that are reasonably accessible to a range of facilities and services, and within close proximity to main transport routes. This approach is supported by the requirements in PPW and Future Wales – The National Plan (Future Wales) which seeks to promote active travel and reduce dependence on private vehicles. Be that as it may, the Circular also advises that an over rigid application of policies that seek a reduction in car borne travel would not be appropriate.

11. In this case, the appeal site, which is situated at the junction of the C0277 and a minor country road, is located 4 kilometres from the rural settlement of Five Roads, which includes a primary school and public house, and approximately 5 kilometres from Llanelli, which provides a range of educational, medical, community and commercial services / facilities. The area surrounding the site is not served by public transport, and the roads that connect the appeal site with Five Roads and Llanelli are largely narrow, unlit and without a segregated pedestrian footway. Consequently, it is likely that most of the trips between the appeal site and these settlements would be car borne.
12. I note the Council's concerns and agree that the proposal would result in an increase in car borne travel. However, I am mindful that in this case the proposal is for a small-scale development which is located within close proximity to Five Roads and Llanelli and as such, would not result in the generation of a significant or unsustainable number of journeys.
13. Moreover, the Circular makes clear *that "Issues of site sustainability are important for the health and well-being of Gypsy and Travellers not only in respect of environmental issues but also for the maintenance and support of family and social networks"* (paragraph 37). In this case, the supporting evidence makes clear that the proposal would provide the appellants, who are cousins and grew up in the Llanelli area, with the opportunity to live, and bring up their children in a secure family environment which is located close to their respective parents / grandparents.
14. In light of the above, I consider the proposed development would be situated in a sustainable location that would assist in supporting the health and well-being of the applicants and their families.
15. As such, I consider the proposed development accords with the requirements of Policy H7(a), Circular 005/2018 and national policy.

Character and appearance

16. The appeal site comprises an irregularly shaped agricultural field which is enclosed on the roadside boundaries by a hedgebank and woodland trees. The area surrounding the appeal site is largely rural and characterised by isolated residential properties and farmsteads set in a rolling countryside. Topographically, the land to the south of the appeal site slopes gently down towards Llanelli and, in doing so, allows for views of the appeal site and the surrounding area.
17. The proposed pitches would be located in the south-eastern section of the site and orientated to face the boundary with the minor country road. Each pitch would include a static caravan, touring caravan, a day room and a stable block which would be set out in an 'L' shaped arrangement and sited either side of a central access point. The rear boundary of the development would be enclosed by a newly planted hedgebank, whilst the existing roadside boundaries would be supplemented by new planting.
18. The Council maintains that the proposal would, because of its elevated position and the creation of a new access, be clearly visible from the lower lying land to the south of the site and result in a form of development that would wholly alter the original character and appearance of the site and be incongruous in the wider countryside. Moreover, it is suggested that the absence of any existing landscape features along the rear boundary together with the length of time it would take the proposed planting to establish, would exacerbate the visual impact of the development when viewed north of the site.

19. I agree that the proposal would alter the rural character of the site and that, in the short-term, the development would be visible when viewed from the area surrounding the appeal site.
20. As such, I consider that the proposed development would have an adverse impact on the character and appearance of the area and would be contrary to the requirements of Policies GP1(i) and H7(e) of the LDP.

Other Material Considerations

Need and Supply of Gypsy and Traveller Sites

21. The Housing (Wales) Act 2014 places a statutory duty on local authorities to provide Gypsy and Traveller sites where there is an identified need. The Council's most recent Gypsy and Travellers Accommodation Needs Assessment (GTANA) was undertaken in 2019 and identified a shortfall of 19 pitches in the County, which was predicted to increase to 23 pitches by 2024 and to 31 by 2033.
22. To address this shortfall, the Council explained that: planning permission had been granted for 28 pitches since 2019; that the need figure for 2024 had been met and exceeded; and the remaining long-term need would be addressed by the allocation of land for the development of 11 pitches in the emerging Replacement LDP. Consequently, the Council considers that there is no unmet need in the County.
23. Whilst acknowledging that planning permission has been granted for 28 pitches since 2019, the appellants maintained that these sites are intended to meet the needs of the respective owners and, as such, are not available on the open market. These views were supported by the representative of Travelling Ahead who expressed concern that the GTANA underestimated the level of need in the County and that many Gypsy and Travellers have found it difficult to purchase sites from local landowners.
24. Although I note that the interim need for Gypsy and Traveller pitches may have been met, I am mindful of the likelihood that the figures contained in the GTANA are a minimum requirement and that there may be occasions when the provision of additional sites is necessary to meet unmet need. In this case, the interim need has been met entirely by the granting of planning permission for the development of pitches on privately owned sites, which are intended to meet the needs of the site owner and their family / friends. Consequently, whilst the numerical requirement may have been met, it is clear from the evidence presented that none of the sites are available for sale or rent. Moreover, even though the long-term need would be met through the allocation of sites within the Replacement LDP, the Plan has yet to be adopted and it is likely that this, and the subsequent development of the sites, would not take place for some time. As such, I consider that there is a shortfall in the provision of available pitches within the County to meet the needs of the Gypsy and Traveller Community.
25. In any event, the intention of Policy H7 is to recognise that some Gypsies and Travellers may wish to find, purchase, and develop their own private sites. This approach accords with the requirements of paragraphs 62 and 63 of the Circular.
26. Based on the evidence presented, I have found that there is a need for an additional Gypsy and Traveller site within the County and that there is a lack of an appropriate alternative private or publicly owned site to accommodate the appellants needs.

Other Matters

27. In addition to those matters already addressed, a number of other concerns have been raised by local residents in relation to issues such as surface water drainage, highway

safety and litter. Whilst I note these concerns, I am mindful that: the management of surface water generated within the site is addressed in the layout of the scheme and will be considered in more detail by the Sustainable Drainage Approval Body; matters in relation to highway capacity and safety have been fully assessed by the Council and found to be acceptable; and, no substantive evidence has been presented to demonstrate that the proposed development would create or exacerbate the problems of litter in the locality. As a consequence, I do not consider that any of the issues raised are sufficient to alter my overall conclusions.

Overall Balancing

28. I have found that the proposed development would result in harm to the character and appearance of the area, albeit that this would be localised in nature. However, I am mindful that the siting and low-level design of the structures, would, when considered in conjunction with the proposed landscaping along the roadside boundaries and to the rear of the compound, ensure that the development would not be a visually prominent or discordant feature in the landscape over the medium to long term. In this context, and subject to a condition which secures a landscaping scheme, I find that the resulting harm would be limited.
29. I have also found that the site is sustainably located and that there is a need for additional Gypsy and Traveller pitches within the area. Although I note that the Council takes a contrary view, I nevertheless consider these issues to be important and matters on which I place significant weight.
30. In addition, I have found that the appellants personal circumstances, and in particular the evidence that has been presented about the difficult and intimidatory conditions at the public sites on which the appellants reside, provides a clear and persuasive explanation of the difficult circumstances in which they live and corroborate the concerns they have about the safety of their families. In light of these circumstances, and the requirements of Article 8 of the Convention on Human Rights and Article 3 of the United Nations Convention on the Rights of the Child, I place significant weight on these matters.
31. In this case having taken into account all matters including the family's personal circumstances, the sustainable credentials of the site and the lack of other provision in the area, I conclude that the limited harm to the character and appearance of the area is clearly outweighed by other factors. In these circumstances, I find a permanent permission to be justified and there is no need to consider the merits of a temporary permission. Article 3 of the United Nations Convention on the Rights of the Child

Conditions

32. Guidance in relation to the use of conditions is set out in Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management. The Council submitted a list of draft conditions with reasons as part of the written statement. The draft conditions were discussed at the hearing and, subject to confirmation about the need for condition Nos. 13, 14, 15, and 16 which are necessary to deal with the issue of ground contamination, some minor alterations to improve the application and clarity of the condition Nos. 11, 12 and 17, they form the basis of the Schedule to this report. In addition, following the submission of a BES, the condition requiring the provision of a scheme the enhancement of biodiversity has been deleted and replaced with a condition which is necessary to ensure the effective implementation of the approved scheme.

Conclusion

33. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is

in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of making our cities, towns and villages even better places in which to live and work.

34. For the reasons given above, I conclude that the appeal should be allowed.

Nicola Gulley

INSPECTOR

SCHEDULE OF CONDITIONS SUBJECT TO WHICH PLANNING PERMISSION IS GRANTED:

1. The development shall begin no later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following plans: Expanded location plan (01b); Location and block plan (02b); Block plan (03b); Floor and elevations plan (04a); Floor plan – stable blocks (05a) and Elevations – stable blocks (06a).

Reason: To ensure the development is carried out in accordance with the approved plans.

3. The occupation of the site shall only be by Gypsies and Travellers as defined in paragraph 2 of Welsh Government Circular 0005/2018 'Planning for Gypsy, Traveller and Showpeople Sites'.

Reason: The residential use of the site in this rural location would not be permitted unless occupied by a Gypsy or Traveller in accordance with Policy H7 of the LDP.

4. No commercial or business activities shall take place on the land, including the storage of materials, nor shall any vehicle over 3.5 tonnes be stationed, parked or stored on the site.

Reason: In the interests of visual amenity and to safeguard the amenity of adjacent occupiers and land users in accordance with Policies H7, GP1 and SP1 of the LDP.

5. No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the caravans Sites Act 1968, comprising of two static caravan and two touring caravans shall be stationed on the site at any time.

Reason: In the interests of visual amenity and to comply with Policies GP1, SP1 and H7 of the LDP.

6. The biodiversity enhancement works shall be carried out in accordance with the details contained in the Biodiversity Enhancement Scheme (April 2024) following the occupation or the completion of the development, whichever is the sooner, and retained thereafter.

Reason: To safeguard and enhance biodiversity and to comply with Policy EQ4 of the LDP and paragraph 6.4.5 of Planning Policy Wales Edition 12, February 2024.

6. No development shall commence until a scheme for foul drainage has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the development is drained in an acceptable manner and to comply with Policies GP1 and EP2 of the LDP.

7. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and ecology and to comply with Policies GP1, EQ4 and EQ5 of the LDP.

8. Any access gates shall be set back a minimum distance of 5.0 metres from the highway boundary and shall open inwards into the site only.

Reason: In the interests of highway safety and to comply with Policies GP1 and TR3 of the LDP.

9. No development shall commence until a scheme to provide a water supply of a suitable volume and quality to serve the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of public health and to ensure that an adequate private water supply is provided to comply with Policy H7 of the LDP.

10. The parking spaces and turning facilities shown on the plans herewith approved shall be provided prior to any use of the development herewith approved. Thereafter, they shall be retained, unobstructed, for the purpose of parking and turning only.

Reason: In the interests of highway safety and to comply with Policies GP1 and TR3 of the LDP.

11. The access shall be hard surfaced in a bonded material for a minimum distance of 5.0 metres behind the highway boundary, prior to any part of the development approved herewith being brought into use and maintained as such thereafter.

Reason: In the interests of highway safety and to comply with Policies GP1 and TR3 of the LDP.

12. No development shall commence until the applicant has:

- a. Prepared a Preliminary Risk Assessment to identify any potentially unacceptable risks arising from contamination at the site. The Preliminary Risk Assessment shall include current and historical information about the site. This can be obtained by undertaking a desk study and a site walkover to identify previous land uses, potential contaminants that might reasonably be expected given those uses and other relevant information, such as pathways and exposure to potential receptors. This information shall also be presented in tabular or diagrammatical form (Conceptual Site Model) for the site and all potential contaminant sources, pathways and receptors shall be included. In order

to complete the conceptual site model, it may be necessary at this stage to undertake limited exploratory sampling. The Preliminary Risk Assessment shall be submitted to and be approved by the Local Planning Authority. The risk assessment should include a mine gas risk assessment that considers the potential for mine gases to exist on the site. The mine gas risk assessment shall be undertaken by a competent person as defined in the National Planning Policy Framework and conducted in accordance with 'CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021'.

- b. Designed and implemented a scheme for the investigation and recording of contamination on the site (where necessary). The detailed site investigation report (Quantitative Risk Assessment) should aim to provide information to refine and update the conceptual model outlined in the Preliminary Risk Assessment. This investigation should confirm and evaluate the significance of the identified potential contaminant linkages. The report shall be prepared in accordance with recognised current best practice, legislation, relevant guidance, documentation, and British Standards. The report shall be submitted to and approved by the Local Planning Authority. c. Based on the findings of the site investigation and risk assessment, submit detailed proposals for site remediation and verification (Options Appraisal and Remediation Strategy) giving full details of the remediation measures required and how they are to be undertaken. This will demonstrate how the site will be brought to a condition suitable for the intended use by removing any unacceptable risks posed from contamination. The proposals shall be prepared in accordance with recognised current best practice, legislation, relevant guidance, documentation, and British Standards. The proposals shall be submitted to, and have received in writing the approval of, the Local Planning Authority prior to commencing the works.

Reason: To ensure any ground contamination is dealt with in an acceptable manner and to comply with Policy EP2 of the LDP.

13. Prior to occupation of the proposed development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. If required, it shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

Reason: To ensure any ground contamination is dealt with in an acceptable manner and to comply with Policy EP2 of the LDP.

14. Prior to occupation of the proposed development, a long-term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority (where necessary). The long-term monitoring plan should include:
- Details of the methods and triggers for action to be undertaken.
 - Timescales for the long-term monitoring and curtailment mechanisms.
 - Timescales for submission of monitoring reports to the Local Planning Authority.
 - Details of any necessary contingency and remedial actions and timescales for actions.
 - Details confirming that the contingency and remedial actions have been carried out.

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Reason: To ensure any ground contamination is dealt with in an acceptable manner and to comply with Policy EP2 of the LDP.

15. If, during development, any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Remediation Strategy' then a revised 'Remediation Strategy' shall be submitted to the Local Planning Authority. If, during development, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed 'Remediation Strategy'.

Reason: To ensure any ground contamination is dealt with in an acceptable manner and to comply with Policy EP2 of the LDP.

16. Prior to the occupation of the development hereby permitted, a visibility splay of 2.0 metres x 25 metres shall be formed and thereafter retained, either side of the centre line of the access in relation to the nearer edge of carriageway. There shall at no time be any obstruction above 0.9 metres within this splay area.

Reason: In the interests of highway safety and to comply with Policies GP1 and TR3 of the LDP.

17. No development shall commence until a scheme for the permanent stopping up of the existing access to the field enclosure wherein the site is located, as shown in the Block plan (03b), has been submitted to and approved in writing by the local planning authority. The access shall be permanently stopped up in accordance with the approved details prior to the occupation of the development.

Reason: In the interests of highway safety and to comply with Policies GP1 and TR3 of the LDP.