



Appeal Decision

Hearing held on 24 January 2024

Site visit made on 25 January 2024

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2024

Appeal Ref: APP/J0405/W/23/3332664

Land adjacent to Lawn Hill, Edgcott, Buckinghamshire HP18 0TT

- 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 the Ward, Nolan and Casey families against the decision of Buckinghamshire Council.
 - The application Ref 22/03098/APP, dated 15 September 2022, was refused by notice dated 15 September 2023.
 - The development proposed is for the change of use of land for the creation of 4no Gypsy/Traveller Pitches for residential use, including the siting of 4no mobile homes, 4no touring caravans, and the erection of dayrooms.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for the creation of 4no Gypsy/Traveller Pitches for residential use, including the siting of 4no mobile homes, 4no touring caravans, and the erection of dayrooms at land adjacent to Lawn Hill, Edgcott, Buckinghamshire HP18 0TT in accordance with the terms of the application, Ref 22/03098/APP, dated 15 September 2022, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. I have removed the word 'retrospective' from the description of development as this is not an act of development. However, works have taken place on site. Those works are not in accordance with the plans and details before me, and I have based my assessment on the evidence submitted, not what was on site.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. The Planning Policy for Traveller Sites (PPTS) was also updated on 19 December 2023. This update related to Annex 1: The definition of Gypsies and Travellers. The changes revert to the definition in the 2012 version. Both parties were given the opportunity to provide comments before and during the Hearing, and I have taken account of these.
4. An amended site plan was submitted at the Hearing by the appellants. This reduced the 'red edge' of the site to less than 1 hectare, meaning that a site-specific flood risk assessment was no longer necessary¹. The Council had no objections to the amended plan. The plan reduces the size of the site, and I am satisfied that no parties would be prejudiced by its submission.

¹ Framework footnote 59.

Main Issues

5. These are:
 - a) The effect of the development on the character and appearance of the area,
 - b) Whether the location of the site would provide the occupants with reasonable access to services and facilities,
 - c) Whether the means of surface and foul water drainage of the site would be sufficient,
 - d) The effect of the development on protected species, with specific reference to Great Crested Newts; and,
 - e) Whether the proposal would provide a biodiversity net gain.

Reasons

Policy

6. The Vale of Aylesbury Local Plan (September 2021) (VALP) is the development plan for the area. The proposal is for a Gypsy and Traveller Site, and it is agreed with the Council that the site occupants meet the definition of Gypsies and Travellers in the PPTS.
7. Policy D11 of the VALP is a permissive Gypsy and Traveller policy, which sets criteria for these proposals, providing it can be demonstrated that there is an identified need. Whilst the Council maintain there is no general unmet need in the area, it acknowledged at the Hearing that there was a personal need which could be accommodated on this site.
8. The Council also accepted that the policy could relate to general or personal need, and for the purposes of this appeal, the personal need means that the first part of Policy D11 is met. The proposal should then be assessed against the criteria, and the site would be suitable or not, having regard to this. It was agreed that parts b, c, e, h and i of the policy were met. I will address the outstanding issues below.

Character and appearance

9. The site is on the northern side of Lawn Hill, just outside of Edgcott, a moderately sized village to the north west of Aylesbury. It is surrounded by a well-established belt of hedgerows and trees and contains hardstanding and caravans.
10. Lawn Hill is a country lane characterised by fields, hedges and grass verges, with sporadic dwellings, commercial premises and farmsteads. That said, directly opposite the site is a commercial logging business, with HMP Grendon Springhill beyond this, a large prison complex. There is a conspicuous landfill site to the north, which contains venting chimneys and has a large, elevated landform. There is also a vast energy from waste site to the west which is visible from the Lawn Hill and many vantage points in the area. A public right of way (PRoW) runs to the west boundary of the site, towards the land fill.
11. The site is designated as being within the Calvert Clay Pits (Wooded Rolling Lowlands) Landscape Character Area (LCA). This LCA is identified as having a relatively low sensitivity due to the highly altered nature of the landform, because of the clay pits and landfill site. Owing to these landscape features and

- surrounding uses, the site is not a highly rural location, as asserted by the Council.
12. The proposal is for the change of use of the land and the creation of 4 pitches for Gypsies and Travellers. Each pitch would accommodate one static caravan, one touring caravan and one dayroom. An access road and turning area is also proposed.
 13. The proposal would urbanise an element of previously undeveloped land, yet it would be a well planned layout with pitches sited in a regular pattern, parallel with the southern edge of the site and separated by hedgerows. Additionally, a second hedgerow would be planted to the rear of the existing hedgerow along Lawn Hill. This could positively enhance the environment when established.
 14. With the indicative landscaping proposed, the visual effect of the proposal would be minimal. The tops of caravans and day rooms are likely to be seen when directly outside the site or on the adjoining PRow. However, even traversing the PRow in winter, only glimpses of the site were clear on one side of the path, noting that the landfill site was completely in view when walking north. There would be wider views of the site from the north, yet these are in the context of the other urbanising developments in the area.
 15. Furthermore, the PPTS is clear that proposals for Gypsy and Traveller sites should not enclose a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. The proposed landscaping would ensure that glimpses of the site were visible, but in the context of the surrounding area, the low sensitivity of the landscape, and its location just outside Edgcott, it would not have a significantly adverse impact on the countryside landscapes. Indeed, it would respect and complement the local distinctiveness and vernacular character of the locality. This is even considering the size of the dayrooms and domestic paraphernalia that would be associated with the use.
 16. Thus, the effect on the character and appearance of the area would be acceptable. This would be compliant with Policies D11, S1, S3, BE2, and NE4 of the VALP. These seek to ensure that proposals for Gypsy and Traveller sites would not have a significantly adverse impact on environmental assets such as the countryside landscapes, are sustainably developed, respect and complement the local character and distinctiveness.
 17. There would also be compliance with the Framework, National Design Guide, and the PPTS. Together these seek to ensure sites are well planned or soft landscaped in such a way as to positively enhance the environment, achieve well designed and beautiful places that are integrated into its wider surroundings, physically, socially and visually.

Location of the site

18. Edgcott is a moderately sized village and is identified in the VALP as an 'other settlement'. This means that there will be very restricted development in Edgcott because it has very limited facilities. Therefore, it is not regarded as a sustainable location for strategic growth.
19. The site is just outside the village envelope, being less than a 5 minute walk to the nearest housing. Whilst there is no footpath or street lighting, this is a very

short distance before reaching the village edge. Once in the village, there is a footpath that runs from Edgcott south to Grendon Underwood, where the nearest local primary schools are located. Whilst this would be a relatively long walk, some occupants may choose to undertake this depending upon their propensity to walk, although I recognise that many will not.

20. There are bus services that operate through the village, linking to Bicester and Aylesbury, being around a 10 minute walk from the site. The services are irregular and do not offer journeys on Sundays. That said, having a 6 day service that runs between 2 large settlements during the day would, to my mind, be relatively good access for a rural bus service.
21. There is a village shop in Calvert, to the north, although there is no footpath from Edgcott to Calvert and most journeys are likely to be taken by car. The nearest doctor's surgery is in Steeple Claydon, a short drive from the site.
22. Larger settlements such as Bicester or Aylesbury are likely to be used in the main when accessing shops and services. However, the site is around a 5 minute drive from the A41, having relatively good access to classified roads. The journey would be around 20 minutes to Bicester and around 30 minutes to Aylesbury by private car.
23. Overall, the site occupants are likely to be largely reliant upon private vehicles to access most services and facilities. However, these services and facilities are not long journeys. Indeed, the local primary school and the shop in Calvert are around a 5 minute drive from the site.
24. The Framework is clear that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Moreover, the Gypsy and Traveller way of life means that they travel for economic and other purposes, generally towing their caravan. This unavoidably involves the use of a private vehicle irrespective of location.
25. Additionally, the PPTS recognises that a settled base can reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability. For other family members who have ceased to travel, either temporarily or permanently, they would need to access services within a reasonable travelling distance. However, as identified above, many of the essential services are a short drive away, which to my mind offers a reasonable access, considering the Gypsy and Traveller way of life.
26. This is particularly the case considering that any edge of settlement sites, or sites within settlements are likely to be either allocated, or suitable for housing for the settled community. This means that they would be unavailable to accommodate Gypsy and Traveller sites, which is why many sites are often found in countryside locations. The benefit of this location is that it is not away from an existing settlement, its location is not isolated and this would encourage shorter car journeys.
27. Additionally, a settled base can reduce unauthorised encampments, reduce the need for continuous travel and facilitate consistent access to schools and medical services. This would have wider sustainability benefits.
28. Therefore, given the specific use of the site, the occupants would have reasonable access to existing local services and facilities. This would be

compliant with Policies D11, S1, S2, S3, S6 and T1 of the VALP. These seek to ensure that the site has reasonable access to existing local services and facilities, encouraging a modal shift towards greater use of sustainable forms of transport and development to be concentrated in sustainable locations. There would also be compliance with the Framework and the PPTS, which seek to promote sustainable transport, and ensure that traveller sites are sustainable.

Surface and foul water drainage

29. The details presented by the appellant for the surface and foul water drainage are minimal. However, the reason for this is that often these matters are subject to a planning condition. This can reduce the need for expensive studies being carried out when it is unknown if planning permission would be granted. In the case of Gypsies and Travellers, this is a genuine concern given the costs that can arise.
30. In this instance, the Council is of the opinion that these details cannot be secured by condition. It considers that the site is not capable of technically being able to drain the surface water or safely treat the foul water.
31. Whilst the ground conditions may be more impermeable than other areas in the district, over half the site would not be developed. Furthermore, the hardstanding could comprise permeable materials, and only the day rooms would be permanent fixtures. Therefore, I fail to understand how a technical solution to drain the site could not be achieved by condition. Given that the occupants are on site, the condition would require these details to be submitted within a set time frame. If they were not submitted, or the details were unacceptable and a solution could not be found, the wording of the condition results in the planning permission ceasing. Therefore, the Council is protected in all regards.
32. In terms of the foul drainage, whilst the application form indicates a cess pit, the appellant indicated that a modern method would be employed, such as a package sewage treatment plant. Again, this matter could be subject to the same condition, and there is plenty of space on site to fit this underground feature. I see no reason why this could not be detailed in a condition.
33. Therefore, with the imposition of a condition, the means of surface and foul water drainage of the site would be sufficient. This would be compliant with Policies D11, I4 and I5 of the VALP, which seek to ensure the site is capable of being adequately serviced by sewerage disposal facilities, and would not result in increased flooding, or contamination of water elsewhere.
34. There would also be compliance with the Framework and the Planning Practice Guidance on water supply, wastewater and water quality. These seek to plan positively for water supply and quality by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution.

Protected species

35. The area is identified as a 'red' impact risk area for Great Crested Newts (GCN). This means there is high habitat suitability for newts on site and/or in the surrounding landscape.

36. There are 2 ponds in the field to the north of the site, and there is a pond to the east. The Great Crested Newt eDNA Survey (July 2022) outlines that the ponds to the east and north tested negative for GCN, but the pond on the boundary was inaccessible due to overgrown vegetation. Of the remaining 6 ponds to the south of the site, 3 tested negative for GCN and 3 tested positive. The 3 ponds which tested positive are approximately 250m from the site to the south and south-east, on the other side of a road. Although GCN have been known to cross over roads to access other areas, the road would inevitably reduce connectivity to the site, particularly given the ponds tested to the north of the road did not have a GCN presence.
37. Significant works have already taken place on site in the form of hardstanding. The proposed works would create a new access, but in the main would not create greater areas of hardstanding. Therefore, much of the work has already occurred without any previous assessment for GCN or other protected species. The eDNA report details that owing to site clearance, no further impacts are anticipated and the likelihood that GCN were impacted during the site works was low.
38. At the Hearing, the Council recognised that works had taken place. It would be impossible to ascertain the site conditions pre-development. However, the Council maintained that there could have been GCN on site. There is no evidence to determine this either way, and a precautionary approach should be adopted.
39. The Council advised at the Hearing that a precautionary method statement to include mitigation would be necessary. This would ensure GCN were protected from the development going forward and mitigation would be put in place to offset any harms. The appellants have no objection to this.
40. Therefore, given the future works are unlikely to lead to any further impact, and with the imposition of a condition, the proposal would have an acceptable effect upon protected species. This would be compliant with Policies D11 and NE1 of the VALP, which seek to ensure that Gypsy and Traveller development does not have a significantly adverse impact on biodiversity.

Biodiversity Net Gain

41. Policy NE1 of the VALP requires a biodiversity net gain (BNG). This will be sought by protecting, managing, enhancing and extending existing biodiversity resources, and by creating new biodiversity resources.
42. It was detailed at the Hearing that the gain could be anything, provided it was positive. However, the Council were concerned that BNG could not be provided the site, and off site measures would be necessary, which would necessitate a legal obligation. The appellants strongly refute this, given that over half the site would remain undeveloped and significant hedgerow planting would be proposed.
43. The site appears to have sufficient space in which planting, hedgerows and other methods could be employed to secure BNG. This could be subject to a condition that requires the submission of a BNG Report and associated Biodiversity Metric demonstrating that BNG can be achieved on site.
44. Furthermore, like my findings in relation to drainage, if the appellants fail to demonstrate this, then the wording of condition 2 is such that the permission

would cease. With the imposition and satisfaction of this condition, the proposal would achieve BNG and this would be compliant with Policies D11 and NE1 of the VALP.

Other Matters

45. The need for pitches for Gypsies and Travellers, the personal circumstances of the occupiers, including the best interests of the children, the Human Rights Act and the Public Sector Equality Duty were all discussed during the Hearing. However, given my findings above, it would not be necessary to consider these matters any further as there would be policy compliance.
46. Local residents complain of noise from generators, however, no noise nuisance has been reported to the Council. Furthermore, the use of generators is expected to cease if permission is granted because the appellants are likely to secure a mains electric connection. I do not consider that a condition to control noise from this source would be necessary given the nearest receptor would be footpath users, and this would be for a very short and transient period.
47. Other appeal decisions were presented by both parties. I have had regard to them so far as necessary, whilst also noting that the facts and matters in each of these appeals turn on things which are materially different, such as location.

Conditions

48. The plans are listed for certainty [condition 1]. A site development scheme is necessary, which will require details of hard and soft landscaping, surface and foul drainage, external lighting, arboricultural method statement and tree protection, BNG and slab levels for the dayrooms [condition 2]. The time for the submission of these details was suggested as 3 months. However, there is a requirement for GCN mitigation. Additional surveys could be necessary, and the timings for these is dependent upon certain periods of year. Therefore, increasing the time requirement to 6 months for condition 2 is reasonable to ensure there is sufficient time for the GCN mitigation to be carried out and all other conditional requirements to be met. The details required in condition 2 are necessary to ensure that the proposal has an acceptable visual effect, mitigates flooding and contamination risk, and is policy compliant.
49. A scheme for GCN mitigation and working methods would be necessary for the reasons set out above [condition 3]. Implementation of the new access and closure of the existing access is necessary to ensure the scheme has a safe and suitable access point [condition 4]. Details of the materials for the dayrooms is necessary to ensure the external appearance is suitable [condition 5]. Maintenance of the approved landscaping would be necessary to ensure that it becomes well-established [condition 6].
50. A condition restricting the pitch numbers, type and number of caravans should be imposed to limit the visual impact [condition 7]. Likewise, conditions relating to external lighting [condition 8], the parking of larger commercial vehicles [condition 9] and no commercial use or storage [condition 10] would be necessary to safeguard the character of the area.
51. Despite the appellant's objection, a restriction on boundary treatments is necessary, given the size of the site and harm that various domestic boundary treatments could have upon the character of the area [condition 11]. A policy

restricting the site to the occupation of Gypsies and Travellers is necessary given this is what the proposal is for [condition 12].

52. A condition for a Construction Environment Management Plan and Habitat Management Plan was suggested by the Council. However, given the requirements in conditions 2 and 3 for both BNG and GCN mitigation, this condition would not be necessary or reasonable.
53. The Council requested that the surface water drainage condition included specified ground investigations so that there is evidence of suitable soakaways. However, condition 2 requires details of the method employed to delay and control the surface water discharged from the site and it is for the Council to assess the scheme submitted. Therefore, I do not consider it necessary to apply a separate condition for ground investigations.

Conclusion

54. For the reason set out above, the appeal is allowed.

Katie McDonald

INSPECTOR

Appearances

For the Local Planning Authority:	
Bibi Motuel	Planning Officer, Development Management
Laura Pearson	Team Leader, Development Management
Laura Lee Briggs	Planning Solicitor Buckinghamshire Council
Louise Anderson	Principal Planner, Planning Policy
Helen Harding	Principal Planner, Planning Policy
Alex Totty	Sustainable Drainage Officer, Lead Local Flood Authority
Emma Foster	Ecology Officer
Chloe Roberts	District Licensing Officer (Great Crested Newts)
Olivia Stapleford	Planning Enforcement and Monitoring Team Leader
For the appellants:	
Alan Masters	Counsel for the appellant
Tony White	Agent
Patrick Ward	Appellant representative
John James Ward	Appellant
Rose Gentle	Appellant's family member
Kaley Guest	Appellant's family member

Hearing Documents

HD1	Amended site plan – drawing No 001
HD2	Indicative site plan
HD3	Bus timetables

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site plan 001 (25 January 2024)
 - Site Layout Plans, reference: RA1584/01
 - As proposed dayroom, reference: J003766-DD-04
 - As Proposed Visibility Splays, reference: J003766-DD-05.
- 2) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 6 months of the date of this decision a scheme for:
 - a) hard and soft landscaping of the site. This shall include details of boundary treatments, hard surfacing, tree, hedge and shrub planting, including species, plant sizes, numbers and densities;
 - b) the means of surface water drainage of the site, based on sustainable drainage principles to include information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - c) the means of foul water drainage;
 - d) proposed and existing external lighting on the boundary of and within the site;
 - e) Arboricultural Method Statement and Tree Protection Plan, adhering to British Standard 5837;
 - f) Biodiversity Net Gain Report and associated Biodiversity Metric demonstrating that Biodiversity Net Gain can be achieved on site; and,
 - g) Slab levels for the dayrooms;shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development for b) and c).
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 3) Before any further works take place on site, including hardstanding or development, a precautionary great crested newt method statement,

including mitigation, shall be submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details.

- 4) Within 3 months of the final condition being approved, the means of access shall have been sited and laid out in accordance with approved drawings 'As Proposed Visibility Splays, reference: J003766-DD-05, dated August 2022' and 'Site Layout Plans, reference: RA1584/01, dated September 2022'. The access shall be retained and the minimum vehicular visibility splays of 2.4m by 79m shall be provided in either direction of the proposed access onto Lawn Hill, kept clear from any obstruction between 0.6m and 2m above ground level. Upon first use of the approved access, the existing access shall be stopped up and landscaped in accordance with the approved scheme.
- 5) Prior to commencement of the day rooms above slab level, a full schedule of all materials, finishes and samples to be used in the external walls and roofs of the day rooms shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Any seeding or turfing which fails to establish or any trees or plants which, within five years from the approved landscaping being completed, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.
- 7) No more than 4 pitches, as laid out in accordance with the approved site layout, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended shall be stationed on the site at any time, and of which no more than 2 caravans per pitch, one of which shall be a static caravan/mobile home.
- 8) Notwithstanding the requirements of condition 2, no additional external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved in writing by the local planning authority.
- 9) No vehicle over 3.5 tonnes, shall be stationed, parked or stored on this site.
- 10) No commercial activities shall take place on the land, including the storage of materials.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site.
- 12) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites 2023 (or its equivalent in replacement national policy).

*****END OF CONDITIONS*****