APPEAL DECISION - HTD MATTERS

Appeal Decision

Inquiry held on 3 & 4 June 2008
Site visit made on 4 June 2008

by Claire Sherratt **DipURP MRTPI**

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

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Decision date:
9 July 2008

Appeal Ref: APP/K2420/A/08/2065755
Land adjacent to Lodge Farm, Wood Road, Nailstone, Leicestershire

- 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 Joanna Squires against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 07/01305/COU, dated 2 November 2007, was refused by notice dated 19 December 2007.
- The development proposed is change of use to residential caravan site for 4 gypsy families with 8 caravans, including construction of access, road, stables & hardstanding.

Application for costs

1. At the Inquiry an application for costs was made by Joanna Squires against Hinckley and Bosworth Borough Council. This application is the subject of a separate Decision.

Decision

2. I dismiss the appeal.

Main issues

3. I consider the main issues are:
   (a) the effect of the development on highway safety; and
   (b) whether there are other considerations, including the general need for gypsy sites and the needs of the families to which this appeal relates, that are sufficient to outweigh any identified harm.

Reasons

Highway Safety

4. The appeal site is situated to the east of Wood Road, a 'B' classified road. A new vehicular access would be created to provide access to four residential plots and a stable block. Each plot is intended to accommodate one static caravan and one touring caravan.

5. The appeal site is situated in open countryside where new residential development would normally be resisted in accordance with Policy NE5 of the Hinckley and Bosworth Local Plan (LP). As an exception to Policy NE5, LP Policy RES13 stipulates that planning permission will be granted for a gypsy caravan site where the proposal satisfies a number of criteria. It is common ground between the main parties that the criteria of this policy are met with the exception of criteria (d) which requires the proposal to have an acceptable

vehicular access and provision for parking and servicing; and (e) that it does not conflict with any other policies of the Local Plan.

6. The Council's case is that an acceptable vehicular access would not be provided and the proposal would therefore conflict with Policy RES13 (d). In addition, LP Policy T5 states that in considering proposals for new development and changes of uses which involve new accesses, the local planning authority will apply the highways design standards set out in the current edition of Leicestershire County Council's 'Highway Requirements for Development' (HRD). In my view, HRD referred to in Policy T5 is clearly a document incorporating design standards throughout. It is split into a number of parts but nevertheless clearly states that each part of the 'design standard ... should be read in conjunction with the other parts, which together form a complete guide to highway requirements related to development within the County'.

7. The HRD document has since been replaced by another document produced by Leicestershire County Council 'Highways, Transport and Development' (Htd). It was accepted by the appellant's witness that the reference to HRD in Policy T5 should simply be replaced by Htd. Htd was adopted as County Council Policy with effect from 1 January 2008 following some consultation. It is an interim version produced to ensure that Htd reflects latest national guidance, particularly PPS3, Manual for Streets (MfS) as well as PPG13. Part 1 is entitled 'Introduction' whilst Part 3 is entitled 'Design Guidance'.

8. A lot of inquiry time focused on whether all of Htd is relevant to the application of Policy T5 or simply Part 3 'Design Guidance'. In other appeal decisions that I have been referred to within the county, Inspectors appear to have considered the document as a whole. However, I am not familiar with the precise wording of the development plan policies relevant to those decisions outside Hinckley and Bosworth and whether they refer specifically to the HRD or Htd documents in a similar way to Policy T5.

9. There is no doubt in my mind that the Htd document should be read as a whole since Part 3 is cross referenced to Part 1 and visa-versa. Furthermore, the restrictions onto A and B classified roads referred to within the revised document is not unlike the general presumption against the construction of new accesses onto A and B classified roads and against the intensification in use of existing accesses that was contained in the original HRD document.

10. Part 1 of Htd contains 'policies'. Section IN5 sets out the access to the road network policy. Htd does not however form part of the development plan and can only be afforded weight as a material consideration. Paragraph 1.29 confirms that LCC will normally apply restrictions on new accesses for vehicles onto A and B classified roads which, among other considerations, have a speed limit above 40 mph or where measured speeds are in excess of 40 mph; roads without street lighting and roads where there is an existing problem with road safety. Elsewhere, on A and B classified roads, paragraph 1.30 confirms that accesses will not normally be restricted as long as its layout complies with the guidance set out in Part 3.

11. The appeal site is in a location where restrictions would normally apply. The proposal would not therefore be in accordance with policies contained in IN5 of

Htd irrespective of the ability to provide satisfactory visibility splays. This must be so, as the restrictions to be applied can not simply be to provide an access in accordance with the design guidance contained in Part 3 as this is the requirement that new accesses 'elsewhere' on A and B classified roads should meet. Whilst I accept that the visibility requirements set out in part 3 could be met, restrictions over and above the design guidance must therefore be applicable in this instance.

12. Guidance in Annex B of PPG13 relating to accesses to trunk roads stipulates that access will be most severely restricted in the case of motorways. The highest standard and most strategic routes on the core network will be subject to restrictions on access almost as stringent as those applying on motorways; and the remainder of the network will be subject to a less restrictive approach to connections, subject to consultations with the local authorities concerned. PPG13 contains examples i.e. in the case of motorways; access will be limited to junctions with other main roads, service areas, airports etc.

13. In relation to local roads, Annex B of PPG13 states that local authorities should apply the same principles applicable to trunk roads when formulating their own policy on local roads. I have been referred a recent appeal decision, by the Council, for a dwelling that would use an existing access onto an A classified road (ref: APP/F2415/A/07/2041635 – LPA Document 3). In this case, paragraph 1.29 of Htd would also apply. The Inspector finds no conflict between the County Council's guidance and PPG13 in terms of safety considerations and accords Htd significant weight. It seems to me that Htd applies a similar restrictive approach dependant on the nature of the road. I agree that it is not at odds with the advice in PPG13.

14. Whilst the capacity of the road could accommodate the additional development and adequate visibility could be achieved, unlike many of the surrounding local roads, there is no weight restriction along Wood Lane. It therefore provides part of an unrestricted network between junction 22 of the M1, via the A511 to the A447 used by HGVs as well as other traffic. I do not consider that it would cater mainly for local traffic and drivers who are familiar with the road. There are not a number of existing accesses periodically located along the road that may serve to warn drivers that there is every likelihood that vehicles may be turning. I would not expect a residential access to be signposted in any way. All in all, I consider it is a road where a residential access would be most unexpected by other road users. The nature of the road, together with the lack of street lighting would contribute to the hazard that I consider a residential access would present in this location. Furthermore, from what I saw, Wood Road presents very limited opportunities, if any, for future occupiers to go anywhere on foot. The pedestrian use of Wood Road would be extremely dangerous even during hours of daylight.

15. I acknowledge that there is an existing access to Lodge Farm that has some commercial use. This in itself would not justify a further access. The Council's highway witness described a situation that he had observed on site involving a vehicle having to swerve to miss another vehicle that had slowed down to turn into the farm access. The access to Lodge Farm may well be substandard, but this incident nevertheless serves to support the Council's reasoning and my

view that other drivers will not readily be expecting vehicles to be slowing down to turn.

16. An appeal decision (Reference APP/T2405/A/06/2022962) is cited on behalf of the appellant. In this case the Inspector allowed a gypsy site with a sub-standard access onto an unclassified road. The Inspector noted some tension between Htd and Circular 01/2006. Whilst I agree that there is some tension in so far as there appears to be restrictions applicable to accesses on all unlit roads, I consider the nature of the B classified road and its role of routeing traffic through the county can be differentiated from that case. Notwithstanding the traffic flows on this road, I consider it is more likely to cater for local traffic and there are a number of accesses along it. Whilst there is a general acceptance in Circular 01/2006 that rural gypsy sites will be acceptable in principle, that is not to say that matters such as the safety of the access should not be duly considered. Indeed PPG13 confirms that 'whatever the type of access, safety considerations will be paramount. A further appeal decision cited in support of the appellant's case refers to a gypsy site at the Paddock, Higham on the Hill (reference APP/K2420/A/06/2006830) which involved an access onto an A classified road. However, I note that there is a 'good kilometre of substantial and continuous ribbon development which terminates only one narrow field short of the appeal site' which 'has a significant urbanising effect on this stretch of the A5 road'. It has a speed restriction of 50mph. I consider this case can be clearly differentiated from the appeal before me due to the presence of a number of accesses in close proximity to it and the urbanising effect of the development in that location.

17. The Council has granted planning permission for an employment use (B1, B2, and B8), Country Park and landscaping on a former colliery site nearby. Access would be off Wood Road and it is likely to generate significant traffic. Some 4700 turning movements are predicted which is well in excess of the 40 or so per day vehicle movements likely to be associated with the proposed use. No highway objections were raised to this proposal. However visibility splays in excess of that associated with the residential proposal before me would be provided together with significant new infrastructure including a roundabout and junction improvements on the highway network. I would expect the access to this development to be readily apparent, signposted and obvious to drivers given the significance of the development. In any event, I must determine the appeal before me on its own merits.

18. To conclude on the first issue I consider that the proposed development would unacceptably prejudice highway safety and would conflict with LP Policy RES13, PPG13 and Htd in this regard.

Other Considerations

19. I accept that there is an identified need for further gypsy site provision in the area as identified in the Gypsy and Traveller Accommodation Assessment (GTAA) carried out on behalf of Leicester, Leicestershire and Rutland. The GTAA found a need to provide a net additional 26 pitches in Hinckley and Bosworth between 2006-2011, some of which I accept represents an immediate need; with a further pitch provision necessary in 2011-2016. The

identification and provision of sites is still someway off. The proposed site would therefore satisfy some of that immediate need.

20. It is accepted that the 4 families that intend to occupy the appeal site should the appeal be successful do not currently have a permanent site on which to reside since having to leave a tolerated gypsy site at Almond Way which they occupied for some 15 years, in 2002. Local alternative accommodation is essential to the continued education of 4 children and would ensure the enrolment of the appellant's daughter in Nailstone Primary School. The appeal site would accommodate the appellant's horses.

21. These, particularly the clear and immediate need for gypsy sites, the personal needs of the families for a permanent site and the continuity of education for 5 children, are important material consideration weighing in favour of the development. In my view the proposed access onto Wood Road would clearly compromise the safety of future occupiers of the site and other users of the road. Safety is paramount. Whilst there is a clear need for further sites to be provided now, this together with the other considerations I have referred to, would not justify the provision of a gypsy site where the safety of the occupiers of those pitches and the safety of other road users would be so significantly compromised both on a permanent basis, as sought, or for only a temporary period until alternative provision is made.

22. The Parish Council and local residents have raised additional concerns about the number of gypsy sites in the area generally. Having seen these sites, I do not consider they are in such close proximity to the appeal site that the proposal would result in an over concentration or be out of scale with nearby settlements. Furthermore, I am mindful that the appellants have moved from another site in the local area, near to Bagworth.

23. For the reasons given above I conclude that the appeal should fail.

Claire Sherratt
INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Harriet Townsend	Instructed by Hinckley and Bosworth Borough Council.
She called	
Mr M Lennon (Highways Witness)	For Leicestershire County Council, County Hall, Glenfield, Leics.
Ms C Horton (Planning Witness)	Planning Officer for Hinckley and Bosworth Borough Council.

FOR THE APPELLANT:

Bridget Forster	Instructed by Philip Brown Associates.
She called	
Jeremy P. Hurlstone BSc(Hons) CMILT, MIHT (Highways Witness)	Of The Hurlstone Partnership, Seven Oaks Farm, Crew Green, Shrewsbury SY5 9AS
Mr Philip Brown BA(Hons) MRTPI (Planning Witness)	Of Philip Brown Associates Ltd; 74 Park Road, Rugby, Warwickshire CV21 2QX

INTERESTED PERSONS:

Mrs A. McCarthy-Young	Vice Chairman of Nailstone Parish Council

CORE DOCUMENTS

CD1	Copy of Appeal Notification Letter & list of persons notified.
CD2	Suggested Conditions.
CD3	Statement of Common Ground.
CD4	Highways Requirement for Development
CD5	Written Statement of Mrs McCarthy-Young.
CD6	Closing submissions for Hinckley & Bosworth Borough Council.
CD7	Closing submissions for the appellant.

LOCAL PLANNING AUTHORITY DOCUMENTS

LPA1	Planning Permission relating to former Nailstone Colliery Site (South West Industrial Properties)
LPA2	Unilateral Planning Obligation relating to above planning permission.
LPA3	Appeal Decision reference APP/F2415/A/07/2041635 (Welland Buildings).
LPA4	Plan indicating weight restricted routes in area.
LPA5	Traffic Accident Records.
LPA6	Planning History relevant to Lodge Farm.
LPA7	Planning Permission for transit site (Mr Smith).
LPA8	Part 3 'Design Guidance' of Htd.

LPA9 Response of highway authority in relation to proposal at Lodge Farm.

PLANS

PLANS A1-A4 Application Plans