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Mr Simon Wood
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1 - JUN 2010

Your Ref: 09/00995/COU

Our Ref: APP/K2420/A/10/2124138/NWF

Date: 28 May 2010

DEVELOPMENT SERVICES
1 JUN 2010
RECEIVED

Dear Mr Wood

Town and Country Planning Act 1990
Appeal by Mr P Finney
Site at Finney Hill, Heath Road, Bagworth , LE67 3LE

I enclose for your information a copy of the appellant's final comments on the above appeal. Normally, no further comments, from any party, will now be taken into consideration.

Yours sincerely

Fran Littler

E221L(BPR)

You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is -
http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp
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INVESTOR IN PEOPLE
POSITIVE ABOUT DISABLED PEOPLE

Proposed Gypsy Caravan Site at Heath Road, Bagworth
Appeal ref. APP/K2420/A/10/2124138/NWF

Response to the Statement of the Highway Authority on Behalf of the Appellant

This statement has been prepared in response to the Statement submitted by S. J. Hill on behalf of the Highway Authority. The paragraph numbers used in this report reflect those used in the statement of the Highway Authority.

9 The 93 metre distance referred to is disputed (see paragraph 45 below).

14 The assertion that the Htd document reflects government policy and guidance is strongly disputed. Several elements of the guidance in the Htd directly conflict with both national and local planning policy (see paragraph 19).

16 Given this conflict with national and local planning policy, I cannot see how the Htd can properly be afforded the status of supplementary planning guidance.

19 Section IN5 paragraph 5 is clearly and fundamentally at odds with national and local planning policy. Adopting a virtual embargo on new accesses and the increased use of existing accesses on unlit rural roads would effectively prevent many forms of development which are specifically allowed for and encouraged by national and local planning policy. In particular finding acceptable Gypsy and Traveller sites is rendered virtually impossible by this approach.

31 It should be noted that the appeal site has been in use for over 6 years but none of the accidents referred to in this paragraph have taken place in the vicinity of access to the site. One of the recorded accidents occurred at a road junction over 600m to the north and the other 4 occurred at a different access 260m to the south. Clearly, the longstanding and continuous use of the access to the appeal site has not been the cause of any accidents. This is hardly surprising, as anyone using the access will realise that visibility from the access is more than adequate to facilitate safe turning manoeuvres.

37 It is incorrect to suggest that the lawful use of the site would generate "few if any vehicle movements. The most likely agricultural use of the site would be as a market garden, which would be likely to generate several vehicle movements per day.

39 It is incorrect to suggest that this residential gypsy site would generate more trips than a normal household. The occupant pursues a travelling lifestyle and operates his business whilst travelling. He is away from the site for substantial periods. Traffic generation will be no more than for a normal household.

40 The Highway Authority is clearly unaware of the relevant planning guidance relating to Gypsy and Traveller sites and has made a

fundamental error in applying the same locational requirements and sustainability considerations to this proposal as it would to a normal residential site. There is clear recognition in government guidance on Gypsy and Traveller sites that flexibility is necessary in considering the use of transport and proximity to services. The Highway Authority appears to be unaware of the relevant guidance.

41 It is clearly nonsense to suggest that drivers would be confused by encountering right turning traffic at the site access. This is a bizarre assessment of the impact of the development. Drivers encountering right turning traffic at the site access would have good visibility of the right turning vehicle. Why would an approaching driver have any difficulty in understanding the intensions of the right turning vehicle? Why would this be more of a problem on an unlit country road than on a suburban road?

44 As an inspection of the site and use of the access will demonstrate, drivers emerging from the site or entering the site have good visibility of approaching vehicles. The Highway Authority has suggested that visibility should be 160 metres, which is the required visibility where the 85th percentile speed is 85kph. Guidance on visibility from the Highways Agency in TD42 requires a minimum visibility of 120m from a point 2.4m back from the carriageway edge, for speeds of 70kph. As the speed of traffic is only 74kph, the available visibility, which is over 400m to the north and 135m to the south along the nearside verge, is broadly in accord with national guidance. Given that the traffic speeds on this road are much closer to 70kph than to 85kph, the Highway Authority's stance seems unnecessarily inflexible.

45 One must question why the Highway Authority has chosen to measure visibility from a distance of 2.0 metres back from the carriageway edge. Visibility is normally measured from 2.4 metres back and, due to the curvature of the road, visibility from this access is better if one adopts this position. In any event, the 93 metre distance referred to is disputed. Measured along the nearside carriageway edge, visibility is in excess of 130 metres. Visibility along the opposite carriageway edge is over 100 metres but the only circumstances in which the latter visibility distance would be relevant is if a motorcycle was travelling at speed towards the appeal site on the wrong side of the carriageway approaching a bend in the road - a most unlikely scenario!

48 Again, the Highway Authority has applied standards which apply to a road with a design speed of 80kph when the reality is that this road does not achieve that design standard and actual traffic speeds are closer to 70kph for which the forward visibility requirement is 120 metres or 90 metres at "one step below desirable minimum."

49 The problems associated with the lack of street lighting are significantly overstated.

58 Since this appeal was considered, visibility at the access has been significantly improved. The Inspector's conclusions cannot therefore be relied on in relation to the current appeal.

Conditions

The condition relating to details of parking facilities is unnecessary. The submitted layout shows adequate parking space. Nevertheless, the appellant does not oppose the condition but the two week timescale is unreasonable.

The condition relating to gates is acceptable.

The condition relating to surfacing is acceptable in principle but the two week timescale is unreasonable.

The condition relating to turning facilities is acceptable.

The condition relating to drainage is acceptable in principle but the two week timescale is unreasonable.

The conditions relating to signing is considered to be unnecessary but is nevertheless acceptable to the appellant.

A. R. Yarwood, DipTP, MRTPI
May 2010