



Appeal Decision

Hearing held on 18 January 2011

Site visit made on 18 January 2011

by C J Anstey BA(Hons) DipTP DipLA MRTPI

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

Decision date: 4 February 2011

Appeal Ref: APP/R3325/A/10/2138648

Atchintan, Gawbridge, Kingsbury Episcopi, Martock, Somerset, TA13 5HJ.

- 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 Mr Arthur Hughes against the decision of South Somerset District Council.
 - The application Ref 10/03002/FUL, dated 22 July 2010, was refused by notice dated 16 September 2010.
 - The development is the retention of hardstanding, toilet block (including septic tank), and Nissen hut, and proposed erection of stable block. Change of use of land for keeping of horses.
-

Decision

1. For the following reasons I dismiss the appeal

Description & Background

2. The appeal site is triangular in shape and measures approximately 0.24 ha. It is located in open countryside and well outside any settlement, on a lane between Coat and East Lambrook. The site is open, apart from a Nissen hut and small timber shed (accommodating a toilet and washbasin) in the north-east corner. All the surface of the site is consolidated hardcore. Access is gained from the north-east via a shared access to the adjacent field. The access at the southern tip is currently blocked-off by a temporary mound. Around the boundary of the site is a hawthorn hedge interspersed with a few scattered trees. Along the inside of the boundary hedge by the lane runs a small bund topped with conifer hedging.
3. On the field immediately to the north-east of the appeal site, there are a few buildings used in connection with the keeping of horses. This field is owned by the appellant's daughter, as are the adjoining field to the north-west and a further field beyond this to the north. Gawbridge Mill, which consists of a number of dwellings and a range of outbuildings, is located along the lane further to the north-east. There are some recently constructed timber stables in the field opposite the Mill.
4. There is an extensive planning history to the site, including various planning appeals, related to unauthorised works and its unauthorised occupation as a gypsy site. The appellant, Mr Hughes, who is a Romany Gypsy, and his family

vacated the site in April 2010 as a result of Council action. Mr Hughes and his family currently reside by the roadside in Martock.

5. The appeal site is subject to a Court Order requiring removal of the Nissen hut, toilet block, septic tank and hard-standing. It would appear that the site is currently used in connection with the keeping of horses and there were indeed a couple of horses undergoing tuition during my site visit.

Preliminary Matters

6. The appeal application seeks the change of use of the land for the keeping of horses, the retention of the Nissen hut, the timber building housing the toilet and washing facilities, and the hard-surfacing across the site, and the erection of four new timber stables. The appeal site is clearly defined as the triangular-shaped piece of land on the application plans and no other land is included in the application site or shown as being within the control of the appellant. No mention is made of grazing horses on adjacent land in the application or accompanying submission. I understand that the Council determined the proposal on this basis.
7. At the hearing more details about the scheme were given, including the need for the use of adjoining land. The appeal site would essentially be used for the keeping, breeding, breaking-in and training of horses, in association with nearby land. The hard-surfacing on the site would allow this to be carried out through the year. During the winter months horses would be accommodated in the proposed stables and provided with feed. At the hearing the appellant stated this activity was his hobby and the scheme would allow him, and his family, to continue with this traditional gypsy pursuit.
8. As the intention is to retain the stoned surface there is no grazing land for the horses on the appeal site. Grazing land would be provided in the adjoining field to the north-west and the field beyond, both owned by the appellant's daughter. The total number of horses kept is likely to be in the region of 5-6, but could be as many as 10. The Nissen hut would be used for hay-storage whilst the toilet is required for those using the site, including the appellant, who has diabetes, and the appellant's adult grandson, Arthur, who has severe learning difficulties.
9. It is evident from the description given at the hearing that what is proposed is not a free-standing use and involves the use of adjoining land for grazing and exercise. At the hearing it was stated for the appellant that the proposal would not work just on the triangular-shaped piece of land and required the use of adjoining land. In my view, therefore, the revised scheme now advanced is different from the proposal as set out in the appeal application and determined by the Council, and the subsequent appeal documentation.
10. In view of this finding it is necessary to decide whether it would be appropriate for me to determine the appeal on the basis of the revised scheme set out at the hearing. In reaching a view I am obliged to consider whether the scheme now advanced is materially different from the scheme as originally submitted and if consideration of the revised scheme would prejudice interested parties.
11. I believe that as the revised proposal relies on the use of two nearby fields it has different land use implications and would require a different assessment in terms of local and national countryside policies relating to equestrian use.

Consequently I consider that the scheme represents a materially different proposal from that considered by the Council. As interested parties have not been given the opportunity to comment on the inclusion of the two nearby fields their interests may be prejudiced if I proceeded to determine the appeal on the basis of the revised scheme.

12. In the light of the above I have determined the appeal on the basis of the original scheme considered by the Council. In reaching this view I am also mindful that the two additional fields are not included in the application site or shown as being in the control of the appellant. Furthermore the relevant notices have not been served on the land-owner. This adds weight to my decision not to deal with the revised scheme.
13. The correct procedure for consideration of the revised scheme is through its submission to the Council as part of a new planning application. This will allow the inclusion of the required land for the development in the proposal and enable a thorough and proper assessment to be made of all relevant issues.

Planning Policy

14. Policy ST3 of the South Somerset Local Plan (SSLP) indicates that in the countryside development will be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment, and does not foster growth in the need to travel. Policy ST5 of the SSLP expects new development to respect local character. SSLP Policy CR6 seeks to ensure that within the countryside the erection of new stables for private recreational use are closely related to existing settlements or groups of buildings.
15. The approach inherent in these local policies is broadly in line with the objectives of national planning policies which seek to protect the open countryside by preventing unnecessary development and allowing appropriate development on sites that are suitable for the intended use.

Main Issues

16. In the light of the above I consider that there are four main issues in this case. The first is whether the appeal site, having regard to its size and nature, is suitable for the intended use. The second is the effect on the rural character of the local area. The third is the effect on flood risk. The fourth is whether there are any considerations that weigh in favour of the development.

Reasons

Size and Nature of Site

17. I consider that a fundamental requirement of any proposal for the erection of stables and the keeping of horses in the countryside is the availability of a reasonable amount of grazing land so that the horses can be let out to graze and exercise at suitable times through the year. The reason why equestrian uses are generally considered to be acceptable in the countryside, subject to various safeguards, is the existence of land for grazing and exercise.
18. In this particular case, however, the appeal site is of restricted size and covered in hard-standing, which is to be retained. Consequently there will be no grazing land and little space for exercise available on the site. In my view, therefore, the appeal site is ill-suited to the keeping of horses through the

year. As confirmation of this it was admitted for the appellant during the hearing that the proposal would not work just on the triangular-shaped piece of land that constitutes the appeal site and required the use of adjoining fields.

19. I conclude, therefore, on the first issue that the appeal site, having regard to its size and nature, is not suitable for the intended use. This finding must be given considerable weight.

Character and Appearance

20. Although I accept that the site is screened by the boundary hedging the appeal site has an appearance that is at odds with the rural surroundings. The remnants of the former residential occupation of the site, particularly the two existing buildings and the hard-surfacing, are obtrusive elements that one would not expect to find on a small piece of land in the countryside. They can be seen through gaps in the hedging from both the road to the east and from the public footpath to the west. Although the proposed stable block would not look out of place in a paddock or field here it would add to the amount of built development on the site, thereby adding to its incongruity. I do not believe that the unsatisfactory impact of the development could be mitigated by additional planting, particularly during the winter months. I have taken account of the original comments of the Council's Landscape Officer but this does not alter my view as to the visual impact of the proposal.
21. One of the objectives of SSLP Policy CR6 is to minimise the visual impact of stables by ensuring that they are closely related to existing settlements or groups of buildings. Clearly the appeal site is not closely related to an existing settlement and is in an isolated location. Although there are buildings in the field to the north-east there remains doubt as to whether all these are authorised. Even if lawful I do not consider their existence justifies intrusive development on an adjacent site.
22. I conclude, therefore, that the proposal would be harmful to the rural character of the area. As a result the scheme is in conflict with the objectives of Policies ST3 and ST5 of the South Somerset Local Plan which seek to protect the environment and local character. This finding must be given significant weight.

Flooding

23. On the basis of the material before me, and in particular the Council's Strategic Flood Risk Assessment 2008 (SFRA), I consider that the appeal site lies within Flood Zone 3b (The Functional Floodplain). Although I have taken account of the Flood Report for The Wheelhouse at Gawbridge Mill handed in during the hearing this document does not appear to take account of the results of the Council's recent SFRA. Similarly the evidence given at the hearing about flooding in the local area was anecdotal and was not backed up by any detailed research or studies.
24. As regards the Flood Risk Vulnerability Classification, having taken account of the guidance in Planning Policy Statement 25: Development and Flood Risk (PPG25), I find the proposal to be 'Less Vulnerable.' In reaching this view I note that land and buildings used for agriculture and forestry are 'Less Vulnerable.' Table D.3 of PPG25 clearly states that 'Less Vulnerable' development in Flood Zone 3b should not be permitted.

25. Without any evidence to the contrary the buildings to be retained on the site, together with the proposed stables, are likely to result in a loss of floodplain storage capacity which may increase flooding elsewhere to the detriment of life and property. I am also concerned that in times of flood those looking after the horses may be drawn to the site, thereby compromising their own safety, and possibly that of the emergency services. I consider that the situation with the stables opposite Gawbridge Mill is quite different as the applicants for this scheme live just across the road.
26. I acknowledge that the Environment Agency did not originally object to the proposal but its letter sent in response to the appeal clarifies its position and endorses the Council's approach to flood-risk.
27. I conclude, therefore, that the proposal would be likely to increase flood risk. This consideration must be given significant weight.

Other Considerations

28. I recognise that the proposal would allow the appellant and his family to keep horses which is an important part of gypsy culture and tradition. It would also add to the quality of life of the appellant's grandsons, Arthur and Charlie. Arthur has severe leaning difficulties and it is clear that the keeping of horses on the site is extremely important to him and therapeutic. Without the refuge and interest afforded by the site it is uncertain how he would spend his days. Charlie, although at school, also spends as much time on the site as possible and again finds solace in the horse-related activities on the site. I conclude, therefore, on the fourth issue that there are cultural and personal reasons why the development should be allowed to proceed. I believe that these considerations must be given significant weight.

Overall Conclusions

29. I have concluded that the appeal site, having regard to its size and nature, is not suitable for the intended use, and that the proposal would be harmful to the rural character of the area and would be likely to increase flood risk. As a result the proposal is contrary to local and national planning policies. The objections to the development cannot be overcome by conditions. These findings must be given very substantial weight. I have also found that there are cultural and personal reasons why the development should be allowed to proceed. These need to be given significant weight.
30. In my view, however, the arguments in favour of the development do not outweigh the considerable arguments against. Consequently I find that there are compelling reasons for dismissing the appeal. None of the other matters raised, including the pre-application discussions with the Council and some local support, outweigh the considerations that have led to my decision.

Christopher Anstey
Inspector

APPEARANCES

FOR THE APPELLANT:

Mr J Sanderson

Mr A Hughes (Senior)

Mr A Hughes (Junior)

Ms D Harvey

Gypsy and Traveller Children's Project, The
Children's Society

FOR THE LOCAL PLANNING AUTHORITY:

Mr L Walton

Planner

DOCUMENTS HANDED IN DURING THE HEARING

- 1 Attendance list
- 2 Notification letter & list of persons notified.
- 3 Flood report for The Wheelhouse, Gawbridge Mill handed in by Mr Sanderson.

PHOTOGRAPH HANDED IN DURING THE HEARING

- 1 Aerial photograph of area handed in by Mr Walton.