



Appeal Decision

Hearing held on 16 July 2019

Site visits made on 16 July 2019

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 25 September 2019

Appeal Ref: APP/F2415/W/18/3212852

James Bond Caravan Site, Moorbarns Lane, Lutterworth

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Bond against the decision of Harborough District Council.
 - The application Ref 17/01356/OUT, dated 10 August 2017, was refused by notice dated 11 April 2018.
 - The development proposed is described as '36 dwellings (including 11 affordable units)'.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. On the application form, the location of the site is given as land off Moorbarns Lane. The main parties agreed that it is more clearly referred to as the James Bond Caravan Site, Moorbarns Lane, and I have identified it accordingly in the appeal details above.
3. On 30 April 2019, following the determination of the planning application and preparation of the main parties' appeal statements, the Local Planning Authority (LPA) adopted the Harborough Local Plan 2011-2031. The adopted Local Plan is covered in the statement of common ground, and was referred to by the main parties at the hearing. It replaces the policies of the Harborough District Core Strategy and the saved policies of the Harborough District Local Plan. Policy H2 of the Local Plan requires the provision of 40% affordable housing on sites of more than 10 dwellings, whereas former Policy CS3 of the Core Strategy required 30% of homes on the appeal site to be affordable. A planning obligation makes provision for affordable housing at the higher level of 40%, which would involve 14 as opposed to 11 affordable dwellings. The main parties agreed that the description of development should reflect this position, and accordingly I have considered the appeal on the basis of a proposal for 36 dwellings (including 14 affordable units).
4. The application was submitted in outline form, with approval sought for access, layout and scale at this stage. However, the submitted documents do not include full details of scale in respect of all of the proposed buildings, and it was acknowledged at the hearing that, as a consequence of the increase in the number of affordable dwellings, changes would be required to the proposed layout (plan ref 4423/02D). The main parties agreed that only access details

should be considered for approval, and I have considered the appeal accordingly.

5. At the hearing the main parties clarified the position concerning plans referred to in the appeal documentation. Only two drawings are relevant to the proposed development itself: drawing ref 4423/03B including the site location plan and the existing site plan with proposed highway improvements, and drawing ref 4423/02D proposed site plan. As approval is no longer sought for layout (para 4, above), that shown on the latter plan is indicative only.
6. A unilateral undertaking was submitted by the Appellant (Document 9). It contains planning obligations which make provision for the relocation of existing residents of the appeal site to a site for travelling showpeople which is being formed a short distance further to the south on Moorbarns Lane, for marketing of plots on that latter site during construction of the appeal proposal, and for implementation of the planning permission for a travelling showpeople's site to the east of the appeal site.
7. In addition, a planning agreement between Mr & Mrs Bond, the LPA and Leicestershire County Council (Document 16) contains obligations concerning affordable housing, open space, and contributions towards healthcare, community facilities, education and library facilities.
8. Documents submitted after the hearing opened are detailed in the list appended to this decision.

Main Issue

9. The second of the two reasons for refusal of planning permission concerns the ability of the proposal to adequately deal with surface water drainage. With the Appellant's statement, a further flood risk assessment and surface water drainage strategy was submitted¹, and in the statement of common ground (para 5.2.8) it is agreed that surface water drainage could be addressed by means of a condition. Accordingly, I consider that the single main issue in this appeal is the effect of the proposed development on the supply of homes.

Background

10. The appeal site is a travelling showpeople's site. A series of planning permissions have been granted for the siting of 40 showpersons' caravans there, the first of which also refers to 20 pitches². Subsequently, a 2015 appeal decision concerning a proposal for residential development³ stated that the appeal site had a lawful capacity for 14 plots, but that it only provided room for 5 plots which would accord with the 2007 model standards of the Showmen's Guild⁴. The statement of common ground refers to five plots on the appeal site.
11. The Appellant has received planning permission for seven travelling showpeople's plots on land immediately to the east of the appeal site (the

¹ Appendix 21 to the Appellant's statement.

² The planning history of the appeal site is set out in paragraph 2.1 of the LPA's statement. Planning permission 86/00137/3Z is for the siting of 40 caravans and residential trailers on 20 pitches. Planning policy for traveller sites refers to pitches on travelling showpeople's sites as plots, and I use the same terminology in this decision.

³ Appendix C to the LPA's statement, paras 6 & 7.

⁴ Travelling Showpeople's Sites – A Planning Focus – Model Standard Package, The Showmen's Guild, 2007.

eastern site): the most recent permission was granted on 7 September 2016⁵. An application for the approval of details reserved by conditions has been submitted: although the Appellant's planning consultant explained that it is intended to start development prior to the expiry of this permission in September this year, at the date of the hearing further information concerning landscaping and drainage was awaited.

12. The Appellant has also received planning permission, in 2018, for 18 plots on land further to the south along Moorbarns Lane (the southern site - on the opposite side of the A4303 from the appeal site)⁶. In April of this year, approval was given for details of landscaping and surface water drainage in accordance with conditions Nos 2 & 6 of the permission (Document 6). Subsequently, in July of this year, a further planning permission was granted in respect of the southern site, relating to a revised layout which would provide 20 plots (Document 7)⁷. Work has begun to form the travelling showpeople's plots on this land.
13. On the Local Plan Inset Map for Lutterworth, Bitteswell and Magna Park (Documents 5a & 5b), the appeal site and the eastern site are shown as an existing gypsy, traveller & travelling showpeople's site, and the southern site is allocated as a new gypsy, traveller & travelling showpeople's site. Part 4 of Policy H6 seeks to prevent other uses on allocated or existing traveller sites.

Reasons

The supply of homes

General housing provision

14. The Harborough Local Plan 2011-2031 was adopted recently in April 2019. Policy SS1 provides for a minimum of 12,800 dwellings during the plan period, which is in excess of the requirement for the District of 11,140 dwellings and provides a contingency allowance⁸. In the statement of common ground, the main parties agree that there is a five years' supply of housing land in Harborough. At the hearing the LPA referred to the updated assessment for 2019 (Document 11), which reports a level of supply sufficient for 7.04 years, a slight increase from the 6.94 years calculated in 2018.
15. Insofar as Lutterworth is concerned, about 2,750 dwellings are proposed in a strategic development area (SDA) on the east side of the settlement (Policy L1). About 1,260 dwellings are intended to come forward during the plan period, but the allocation is only expected to commence contributing to supply in 2023/24 with 25 dwellings in that year. The Appellant expressed doubt as to whether the SDA would deliver housing in accordance with the LPA's trajectory, referring to the promotion of the overall development by the County Council rather than by housebuilders and to considerable off-site works. Housing land supply was considered at the examination of the Local Plan, and I note that the Inspector holding the examination found that the Lutterworth East SDA could

⁵ Planning permission ref 16/01165/FUL: the decision notice and approved location and site plans are at appendices 3 & 2 to Mr Stone's statement.

⁶ Planning permission ref 17/01357/FUL: the decision notice and approved site plan are at appendices 5 & 4 to Mr Stone's statement.

⁷ A plan showing the layout of 20 plots within the red edge of the southern site is at appendix 14 to Mr Stone's statement.

⁸ Extracts from the Local Plan are at Document 4. Paragraph 5.1.3 explains the housing need for Harborough and refers to the contingency allowance.

be expected to deliver housing from 2023/24. The Inspector's report acknowledges the requirement for a number of junction works, but it makes the point that not all of these need to be completed before development can commence⁹.

16. Although there are no other housing allocations in Lutterworth, the Local Plan supply also includes commitments. On land east of Leicester Road, 20 dwellings remain, and there are 250 dwellings on a site at Coventry Road¹⁰. Both these sites are expected to deliver houses during 2019/20. On the information before me, there is no shortage of housing land in the District as a whole, and in Lutterworth itself housing is expected to come forward on several sites. There are sites of different size in different locations around Lutterworth, offering choice in housing provision in this key centre.
17. The proposal would provide an additional 36 dwellings. Although there is no ceiling on housing provision, there is no specific need for these additional dwellings given the healthy housing land position, and they would only represent a modest increase in the level of supply. In this circumstance, I give limited weight to the benefit of additional housing from the appeal site.

Affordable housing

18. The Local Plan explains that 179 new affordable homes are required each year from 2017 to 2031. Policy H2 requires provision of 40% affordable housing on sites of more than ten dwellings. The planning agreement specifies that affordable housing is to be provided at this level, which would result in the construction of 14 affordable dwellings on the appeal site. Whilst the proposal would be policy compliant, it would provide a modest contribution to the overall affordable housing requirement in Harborough. Detailed information concerning the progress in meeting the need for affordable housing, and on the position in Lutterworth is not before me. In these circumstances, whilst the provision of affordable housing would be a benefit of the scheme, it is one to which I accord only limited weight.

Travelling showpeople's accommodation

19. The appeal site is a lawful travelling showpeople's site, and is identified as an existing site on the Local Plan Inset Map for Lutterworth, Bitteswell and Magna Park (Document 5a). Part 4 of Policy H6 seeks to preclude the development of other uses on traveller sites, and the proposal would conflict with this policy intention. In a previous appeal decision concerning housing development on the site in 2015, the Inspector, whilst acknowledging a lawful capacity of 14 plots found that there was only sufficient room for five plots which would accord with the model standards of the Showmen's Guild¹¹.
20. The site was not fully occupied at the date of the hearing, and I heard that one resident had died and another had moved. The statement of common ground for the 2015 appeal indicated that four families occupied the site then, although the Inspector records that she saw more occupiers than she had been informed about¹², and at the hearing the Appellant explained that there had been 10-12 families in residence formerly. Clearly the occupancy of the site

⁹ Document 12, para 42.

¹⁰ Document 11, table 3.5.

¹¹ Appendix C to the LPA's statement, paras 6 & 7.

¹² Appendix C to the LPA's statement, paras 33 & 35.

has fluctuated over time, and the recent reduction in the number of residents does not justify taking the effect of the appeal proposal as anything other than the loss of five plots.

21. The main parties had undertaken assessments of the five years' requirement for travelling showpeople plots and the level of supply¹³. The starting point for these assessments is the requirement for 26 plots in Harborough over the period 2016-2031 from the Leicester City & Leicestershire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTTSAA)¹⁴. However, paragraph 7.62 of the GTTSAA explains that two of these plots are needed for residents on a site which is being sold, which it identifies as the James Bond Caravan Site. Inclusion of these plots does not reflect the number of plots at the site, nor is it consistent with the use of the site if the appeal proposal does not proceed, and the main parties agreed that the figure of 26 plots from the GTTSAA should be reduced by two. The GTTSAA's assessment of need takes into account interviews with households which were acknowledged as meeting the planning definition of travelling showpeople¹⁵. Reference is also made to 18 households who were not interviewed and may meet the planning definition, which could result in an increase in the level of need¹⁶.
22. The assessments undertaken by the main parties adopt a consistent approach, but that submitted by the LPA at the hearing with a base date of 31 March 2019 (Document 10) includes the most up-to-date calculation of the five years' plot requirement. Reducing the need derived from the GTTSAA by two plots (para 21, above), indicates a five years requirement for about 14 plots¹⁷. At the base date of March 2019, the supply comprised the 25 plots within the Appellant's eastern and southern sites (above, paras 11 & 12). Taking into account the loss of five plots from the appeal site, the net supply of 20 plots would be sufficient for about 7.4 years. I am mindful that since March 2019, the capacity of the southern site has increased by a further two plots (above, para 12). However this modest increase in the level of supply does not represent a material change, given that the five years requirement would also need to be adjusted in consequence of a later assessment date.
23. A planning obligation requires commencement of the development of the seven plots on the eastern site prior to occupation of the final dwelling on the appeal site. Insofar as the southern site is concerned, obligations require marketing of plots not taken up by the relocation of residents of the appeal site during construction of the appeal proposal, and that development of the appeal proposal is not to start until relocations have been completed and marketing has commenced. In addition, a condition has been suggested which would prevent development of the appeal site until 20 plots were available for occupation on the southern site (Document 14). These measures would avoid a reduction in the existing level of provision resulting from the appeal proposal. Further obligations in the unilateral undertaking would enable existing residents of the appeal site to relocate to the southern site, thereby ensuring that their need for accommodation would be met.

¹³ The Appellant's assessments are at Appendices 11-13 to Mr Stone's statement, and the LPA's assessment is at Document 10.

¹⁴ Document 8, figure 38.

¹⁵ Annex1, Planning policy for traveller sites.

¹⁶ Document 8, paras 7.63 & 7.64.

¹⁷ Using the figure of 24 instead of 26 in row A of the first table in Document 10 gives an annual requirement, including buffer, of 2.7 plots in row J. This rounds to a five years requirement for 14 plots.

24. The Appellant suggested that other sites may come forward to provide accommodation for travelling showpeople during the plan period. Reference was made to additional plots at the Fairacres site in Lutterworth, but there is no specific evidence to substantiate the likelihood of such development.
25. Development of the eastern site would involve taking access through the appeal site. I heard that it is intended that a road would be constructed by the developer of the proposed housing, and the Appellant suggested that in the absence of that scheme the provision of the permitted seven plots would be delayed or would not take place. Insofar as the southern site is concerned, construction work has already commenced, although it was suggested that it may proceed more slowly if housing were not permitted on the appeal site, with reference to an estimated cost of over £300,000 for site preparation. However no viability assessment has been submitted, and there is no clear evidence to substantiate either of these suggestions, and in particular to indicate that delivery of the southern site would not occur within five years from March 2019. Even if accommodation were not provided for travelling showpeople on the eastern site, in the absence of the housing scheme with its access road, the net reduction of two plots would not cause supply to fall below five years' provision. The evidence before me does not indicate that maintenance of a five years' supply of accommodation for travelling showpeople is contingent upon redevelopment of the appeal site for housing.
26. It is clear that there is a five years' supply of plots for travelling showpeople in Harborough. Policy B of Planning policy for traveller sites (PPTS) makes it clear that local planning authorities should not only identify a supply of sites for five years, but that they should also identify sites or broad locations for growth for years 6-10, and, where possible, years 11-15. The GTTSAA identifies a need for 22 plots in the ten years 2016-2026¹⁸. Applying the reduction referred to above (para 21), the net supply of 20 plots would meet need up to 2026. A further four plots are required to meet future need in the period 2026-2031, with just two additional plots available on the southern site.
27. Due to planning obligations, and with the imposition of a condition concerning development of the southern site, the appeal proposal could not proceed without delivery of plots on the Appellant's nearby sites. However the evidence before me does not indicate that these schemes would not proceed in the absence of the appeal proposal, which, in consequence, would result in the loss of five plots overall. Although there would nonetheless be a five years' supply of sites for travelling showpeople, sufficient plots have yet to be identified for the whole of the Plan period, and the site is identified for traveller use in the recently adopted Local Plan. In these circumstances, I consider that the use of the site for bricks and mortar housing would be harmful, and, given the conflict with the Local Plan, I attach significant weight to this harm.

Conclusion on the main issue

28. The proposed development would provide benefits through the provision of additional market and affordable housing, but these merit only limited weight. On the other hand, the loss of an identified site for travelling showpeople would conflict with Policy H6 of the Local Plan, and this carries significant weight. Overall, I conclude that the proposed development would have an adverse effect on the supply of homes in Harborough.

¹⁸ Document 8, figure 38.

Other matters

29. The appeal site is previously developed land on the edge of the built-up area of Lutterworth, and is within 0.8km of the town centre. I agree with the main parties that this is a sustainable location for housing development, but, equally, it is a sustainable location for its existing lawful use as travelling showpeople's site.
30. The Appellant refers to economic benefits arising from job creation during the construction period, spending in the local economy relating to both the appeal proposal and the additional plots, and the new homes bonus. There is no clear evidence that the plots on the eastern and southern sites are dependent on the appeal proposal, and there is no indication of the number of jobs which would be supported by the development or the financial contribution which would be made by the development to the local economy, and I give these matters little weight. Reference is also made by the Appellant to new homes bonus, but I am mindful that paragraph 21b-011 of Planning Practice Guidance advises that it would not be appropriate to make a decision based on the potential for the development to make money for a local authority.
31. The planning agreement provides for contributions to be made towards healthcare facilities at Lutterworth health centre, community facilities identified in the Town Council Community Building Review, the enhancement of facilities at a local primary school and at Lutterworth Library, and arrangements for the provision of open space. I have already referred to the other obligation in the planning agreement concerning affordable housing, and to those in the unilateral undertaking relating to the relocation of residents from the appeal site, the marketing of the southern site and the implementation of plots on the eastern site. All of these obligations are necessary for the development to proceed: I find that the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations are met, and the planning obligations are material considerations in this appeal. However the financial contributions are required to mitigate the effect of the additional demand on local services arising from the development, and the purpose of these measures would not be to provide wider community benefits.
32. Parking takes place on Moorbarns Lane to the north-east of the site access in connection with nearby schools. It is proposed to widen a section of the carriageway to enable two-way traffic movement when parked vehicles are present, and to widen the footway on the south-east side of the road to 2m. A short distance to the south of the site, Moorbarns Lane becomes a narrow road into the countryside and is lightly trafficked here. The purpose of the alterations is to ensure that vehicles and pedestrians from the proposed housing would be satisfactorily accommodated on the adjacent highway. Given the nature of the road to the south, any wider benefit from these highway works would be limited and merits little weight.

Conclusions

33. Lutterworth is identified as a key centre, in the third level of the settlement hierarchy, in Policy SS1 of the Local Plan which sets out the spatial strategy for the District. The strategy expects development to be directed to appropriate locations in accordance with the strategy, and refers to about 1,260 dwellings in the SDA at Lutterworth. Policy GD2 provides for development adjoining the built-up areas of the key centres, where, amongst other requirements, it would

not disproportionately exceed the minimum housing requirement for the settlement, or it is necessary to meet a district-wide or local housing need. Although there is no identified need for the housing proposed, it would not disproportionately exceed the minimum housing requirement, and the proposal would comply with Policy GD2. The scale of the development would be consistent with the settlement strategy: however as an existing travelling showpeople's site there is conflict with Policy H6, and, notwithstanding the links to the formation of plots on the eastern and southern sites, I am concerned that the proposal could result in an overall loss of showpeople's accommodation. For this reason, it is not an appropriate location for the development proposed, and conflicts with part 1 of Policy SS1. The level of affordable housing proposed would comply with Policy H2. Policies GD8 and H5 are mentioned in the statement of common ground: both policies are concerned to ensure that development respects the character of the area. This is an outline scheme, but the principle of redevelopment of the site for housing would not conflict with these policies.

34. The Appellant argued that part 4 of Policy H6, which states that development for non-traveller uses on existing permitted or lawful traveller sites will not be permitted, is over-prescriptive. I disagree: as part of a recently-adopted Local Plan, prepared in the context of current national policy in PPTS, the content of Policy H6(4) is not inappropriate. Policy H6 is of particular importance in this appeal, as it relates specifically to the appeal site, and I give significant weight to the conflict which would be caused by the proposed development. The proposal also fails to accord with Policy SS1(1), and I conclude that the proposal would be contrary to the Development Plan considered as a whole.
35. The provision of additional market and affordable housing carries little weight in support of the proposal, as do the economic benefits of job creation and spending in the local economy, and the benefit of highway works on Moorbarns Lane. Although this is a sustainable location for the development proposed, that factor carries limited weight, bearing in mind that the same advantage applies to use of the site to provide accommodation for travelling showpeople. These matters do not outweigh the harm which would be caused by the loss of an identified site for travelling showpeople, and material considerations do not indicate that the appeal should be determined other than in accordance with the Development Plan.
36. For the reasons given above, and having regard to all matters raised, including the suggested conditions, I conclude that the appeal should be dismissed.

Richard Clegg

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr P Stone	Director, Stone Planning Services Ltd.
Mr J Bond	Appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Brown MRTPI	Senior Planning Officer, Harborough DC.
------------------	---

DOCUMENTS

- 1 Mr Stone's comments on the LPA's suggested possible conditions.
- 2 A1 version of drawing ref 4423/03B - site location plan and existing site plan with proposed highway improvements.
- 3 A1 version of drawing ref 4423/02D - proposed site plan.
- 4 Extracts from the Local Plan.
- 5a-b Local Plan inset Map 64 – Lutterworth, Bitteswell and Magna Park, and larger scale extract of Inset Map 64.
- 6 Decision ref 18/00935/PCD approving details reserved by conditions Nos 2 & 6 of planning permission ref 17/01357/FUL for 18 plots for travelling showpeople on the southern site.
- 7 Planning permission ref 19/00560/VAC for 20 plots for travelling showpeople on the southern site.
- 8 Extracts from the Gypsy, Traveller & Travelling Showpeople Accommodation Assessment, 2017.
- 9 Unilateral undertaking relating to the appeal proposal.
- 10 The LPA's assessment of travelling showpeople plot requirement and supply, 31 March 2019.
- 11 Harborough DC, 5 Year Housing Land Supply, 01 April 2019 to 31 March 2024.
- 12 Extracts from the Local Plan Inspector's Report relating to Lutterworth East SDA.
- 13 Extracts from the LPA's responses to the Local Plan Inspector's Matters and Issues for the Local Plan Examination.
- 14 Possible condition relating to the development of the southern site, agreed by the Appellant and the LPA.
- 15 Refusal of planning permission ref 19/00886/FUL for 4 plots for travelling showpeople at Moorbarns Lane (including land adjacent to the southern site).
- 16 Planning agreement relating to the appeal proposal.
- 17 Email dated 10 August 2019 from Mr Stone with comments on Policy L1 of the Local Plan and housing land in Lutterworth.