Appeal against refusal of application DC/25/0055

Use of land for the stationing of 5 static caravans for residential purposes and 3 associated day rooms. Associated landscape works.

Greenfield Farm Valewood Lane Barns Green West Sussex

24th July 2025

Response to LPA comments

The LPA consider that argument that only lawful development should be considered when assessing landscape / character impact is overly narrow.

They consider that the cumulative landscape effect is not confined to lawful developments alone; it must consider what is on the ground and visible (whether authorised or not) since it is the perceived impact on the character and visual quality of the landscape that is key.

We continue to disagree with this approach.

Unlawful development does not, by its nature benefit from consent, and there are powers in place for it to be removed through the use of Enforcement Notices. It is therefore not permanent and so would be removed or regularised through subsequent applications or appeals.

Once removed it would no longer have an impact and so this is a material consideration. It cannot be correct to consider unlawful development which the LPA have the power to remove.

The baseline against which the impact of the proposed development should be made is the lawful surrounding development and NOT the unlawful situation which does not benefit from consent.

The adjacent sites benefit from permission for 11 pitches, whereas the LPA have made their assessment against a baseline of 42 caravans, the majority of which are not lawful.

With the assessment undertaken correctly against the lawful permissions of the adjacent sites it is clear that there is far less cumulative impact, and the resultant cumulative impact would not lead to harm to the character and appearance of the landscape.

The LPA also introduce an argument in relation to paragraph 26 of PPTS. This did not form part of the reasons for refusal and so should not be introduced at this stage as an argument.

Notwithstanding the above, as this has been introduced, we wish to respond to this point.

The LPA state

> *As per the Officer's report, standalone the appeal proposal would not represent harm to the overall character of the site and surrounding area. However, cumulatively, the development would result in adverse harm, as assessed by the Council. To this end, paragraph 26 of the PPTS states 'Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure'.*

The site resides within the Parish of Itchingfield

The LPA state that in 2021 its population was 1,778 persons. The 2011 census states that this is spread across 578 homes

The combined total of gypsy and traveller sites across both the appeal site and Kingfisher farm is 25 units. Each unit having an average population of 2.47 (based on census data) would give a population of 62 persons residing in the gypsy and traveller sites within the parish.

With the addition of the proposed 5 pitches the number of authorised units would amount to 30 giving a population of 74 persons.

Comparing 74 Gyspy Travellers to a population of 1,778 persons within the settled community cannot in any way be considered to dominate.

Even if the unlawful position was assessed (which we maintain is incorrect as they do not benefit from permission) there would be a total of 62 units and so a population of 153 gypsy travellers set against a population of 1,778 persons within the settled community. This again cannot in any way be considered to dominate.

The LPA seek to consider the 24x dwellings on the 'dog leg' of Valewood Lane (see figure 2 within their statement of case) to be the nearest settled community for the purpose of paragraph 26 of PPTS

The Council's approach is rather contrived, and the nearest settled community should not be just the immediately adjacent houses but should be considered to be the Parish of Itchingfield.

The approach to assessing the impact on the settled community was considered in appeal APP/H1840/W/19/3237790 at Land South of The Close, Cleeve Prior, Worcestershire, WR11 8LF

This appeal related to 6 pitches in addition to an existing provision of 31 pitches within the parish of Cleeve Prior. The parish had a population of 561 people in 247 households

The Inspector considered that the parish should be considered the nearest settled community and assessed that:

> *even if all of these existing pitches were occupied, that would only result in a combined total of 37 pitches (including the appeal site).*

> *In these circumstances, and in the context of a parish of 247 households, I do not consider that the development would result in a cumulative domination of the settled community.*

Taking in to account the population of the nearest settled community and relevant appeal decisions it is clear that the pitches to be provided on the appeal site would be of minor significance however assessed.

There would be a relatively modest number of residents and this addition to the locality would not dominate the settled community.

As such, the proposal (with or without accounting for the unlawful development in the area) would not be contrary to the provisions of paragraph 26 of the PPTS.

The Planning Inspectorate

Appeal Decision

Hearing Held on 18 February 2020
Site visit made on 18 February 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 April 2020

Appeal Ref: APP/H1840/W/19/3237790
Land South of The Close, Cleeve Prior, Worcestershire, WR11 8LF

- 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 James Boswell against the decision of Wychavon District Council.
- The application Ref 18/01727/CU, dated 13 August 2018, was refused by notice dated 4 April 2019.
- The development proposed is described as a *"change of use of land to use as a residential caravan site for 6 gypsy/traveller families each with two caravans, including no more than one static caravan, together with laying of hardstanding and erection of 6 utility buildings"*.

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to use as a residential caravan site for 6 gypsy/traveller families each with two caravans together with laying of hardstanding and erection of 6 utility buildings at Land South of The Close, Cleeve Prior, Worcestershire, WR11 8LF in accordance with the terms of the application, Ref 18/01727/CU, dated 13 August 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development given in my formal decision omits some of the text from the description provided on the planning application form. The omitted text refers to static caravans and has been removed in the interests of clarity. The number of static caravans stationed at the site is also capable of being controlled by condition.

3. The gypsy status of both the appellant and the wider family group is not in dispute. From the information before me, I am satisfied that all members of the family group fall within the definition of 'gypsies and travellers' set out in the Annex to the Government's Planning Policy for Traveller Sites ('PPTS'). The PPTS is therefore a material consideration.

4. It is common ground that the Council is unable to demonstrate a 5 year supply of deliverable gypsy and traveller sites.

Main Issue

5. The main issue is whether the development would result in a cumulative domination of the nearest settled community.

Reasons

Cumulative effect

6. The appeal site is on the edge of Cleeve Prior, which is a relatively small village identified as a 'Category 3' settlement in the South Worcestershire Development Plan (2016). According to the Council, the parish of Cleeve Prior had a population of 561 people in 247 households in 2011.

7. An existing gypsy/traveller site is positioned close to the village on Evesham Road. The Council state that this site contains 31 pitches, although only 10 of these were recorded as being occupied in the South Worcestershire Gypsy and Traveller Accommodation Assessment (GTAA) (2019). The site was also recorded as being under-occupied in the South Worcestershire Addendum to the Worcestershire GTAA (2016), and in the 2014 Worcestershire GTAA (according to the appellant). In this regard, the Parish Council stated at the hearing that it had been around 10 years since the site was last fully occupied. I further note that the South Worcestershire Addendum to the Worcestershire GTAA (2016) refers to there being only a *"slim chance of the vacant pitches ever being reoccupied"*. The South Worcestershire GTAA (2019) discounted the site entirely from the Council's supply of gypsy/traveller sites.

8. The reasons for the under-occupancy of the Evesham Road site were the subject of discussion at the hearing. It was asserted that a history of anti-social behaviour had deterred other travellers from occupying pitches at the site. In addition, several of the pitches were described as being in a very poor condition and subject to contamination and dumping. In this regard, the South Worcestershire GTAA (2019) observed that *"several of the vacant pitches are in a very poor condition and [are] uninhabitable"*. Whilst it was asserted by a number of parties that the site could be cleared and re-let it is unclear what the remediation and clear-up costs would be, and whether this would be a viable proposition. Separately, a local authority lease has recently expired on part of the site, which is currently vacant.

9. An outline planning application has been submitted to the Council (Ref 19/00140/OUT) to redevelop the entirety of the Evesham Road site for up to 80 dwellings. A Planning Committee resolution to approve this application was passed in July 2019, subject to a s106 agreement to secure an affordable housing contribution. I further note that the South Worcestershire GTAA (2019) states that *"the information supporting the proposal included confirmation that all of the site occupants were supportive of the application and all had alternative accommodation to go to".* However, at the hearing the Council stated that an impasse had been reached in relation to the s106 agreement. The approval of this application is therefore uncertain.

10. In light of the above, I consider that it is highly unlikely that the Evesham Road site will be fully occupied in the foreseeable future. It has a longstanding pattern of under-occupancy, and there are a number of factors that act to deter the occupation of the vacant pitches. In any case, even if all of these existing pitches were occupied, that would only result in a combined total of 37

pitches (including the appeal site). The 2 sites are also some distance apart by road and would not have any direct intervisibility. In these circumstances, and in the context of a parish of 247 households, I do not consider that the development would result in a cumulative domination of the settled community.

Policy SWDP17

11. Part C of Policy SWDP17 of the South Worcestershire Development Plan (2016) sets out 11 criteria against which to assess the suitability of proposals for new gypsy/traveller sites. This Development Plan policy is clearly the most directly relevant to the appeal proposal. The Council state that criteria xi. is no longer relevant as it refers to guidance that has now been cancelled. The Council also acknowledge that the development would comply with 9 of the remaining criteria, and I see no reason to take a different view. In this regard, criteria i. seeks to direct new gypsy/traveller sites to either within, or the edge of, a town or Category 1, 2 or 3 settlement. The Policy therefore explicitly allows for edge of settlement gypsy/traveller sites, as is proposed here.

12. Criteria vii of Policy SWDP17 relates to *"whether the size of the site and the number of pitches are of an appropriate scale for the location"*. For the reasons set out above, I consider that the development would also accord with this criterion. It would therefore be in accordance with the requirements of Policy SWDP17. I return to this matter in my Overall Balance and Conclusion, below.

Alternative sites

13. The Council is in the process of producing a Travellers and Travelling Show People Site Allocations DPD. However, that document is at an early stage of preparation and is not expected to be adopted until late 2021 at the earliest. Given its very early stage of preparation, I attach little weight to it at present.

14. It is asserted that recent windfall approvals for gypsy/traveller sites in the District have been on small sites intended for occupation by family members, and that these sites are therefore not available to the appellant. This was not disputed by the Council.

15. Given the issues with the existing Evesham Road site, I accept that it is not a reasonable alternative for the appellant. Moreover, from the information before me, it is unclear whether 6 pitches are currently available at that site. No other more suitable alternative sites have been drawn to my attention by any party.

Other Matters

16. The site would be accessed via Hayward Way, which is a recently constructed spur off The Close. It consists of a short cul-de-sac that serves 6 existing dwellings, a number of which are occupied by families with children. Whilst concern was raised about the use of this road by commercial vehicles, the stationing of larger vehicles on the site could be controlled by condition. Visibility along both Haywood Way and The Close is also good, and the road width is sufficient to accommodate any additional traffic associated with the development. I further note that the Highway Authority has not objected to the development on highway safety grounds.

17. A number of parties, including the Police Design out Crime Officer, raise the effect of the development on local fear of crime. In this regard, issues relating to the existing site at Evesham Road were described at the hearing. However, there is no evidence before me linking the appellant or any of the intended occupants of the development with criminal activity or anti-social behaviour. I therefore attach little weight to this consideration.

18. The appeal site is surrounded by mature hedgerows that largely screen it in longer views from the surrounding countryside. These hedgerows also restrict longer views across the site from Hayward Way. Whilst the development would be visible in near views from the turning head, and from the rear of nearby properties, any impact could be mitigated by an appropriate landscaping scheme that could be secured by condition. Accordingly, I consider that the proposal would not result in any significant harm to the character or appearance of the area. I further note that the Council's Landscape Officer has not objected to the development on these grounds.

19. The appeal site is not within a conservation area and is positioned on the edge of a modern housing estate that is of limited historic interest.

20. The Council acknowledge that the appeal site is in a relatively accessible location on the edge of Cleeve Prior in walking distance of facilities within the village, including a primary school. The nearest bus stop is approximately 300m away, and the site is around 6 km from the town of Evesham.

21. A number of local residents refer to sewer capacity issues in the area. However, the development would introduce only a small number of additional units, and the submissions indicate that foul water would be disposed of via publicly maintained mains drainage. I further note that the Council's Drainage Engineer did not object to the development on these grounds.

22. A Preliminary Ecological Appraisal[1] submitted with the appeal indicates that the site is of low ecological interest. Whilst Great crested newts were recorded in a pond over 200m to the south in 2002, this pond has recently been assessed and was found to have a low Habitat Suitability Index score, making it less likely that Great Crested Newts are still breeding there. Given its distance from the appeal site, and the presence of suitable terrestrial habitat in between, the risk of the species being present and affected is very low. I further note that the Council's ecologist has not objected to the development on these grounds.

23. The appeal site is not designated as being within the Green Belt.

24. It is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.

Conditions

25. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A condition restricting the occupancy of the site to gypsies and travellers is necessary given that I have attached weight to the need for gypsy and traveller sites in the District. Further conditions restricting the number of caravans that could

[1] Preliminary Ecological Appraisal (Cotswold Wildlife Surveys, January 2019)

be stationed at the site, restricting the stationing of larger vehicles at the site, restricting commercial activities, and requiring the submission and approval of a scheme of landscaping, are necessary in order to protect the character and appearance of the area. A condition restricting the hours of construction is also necessary in the interests of the living conditions of neighbouring occupiers. In addition, a condition that requires the access route, shared driveways, turning areas, and parking spaces to be surfaced prior to occupation is necessary so that these facilities are available to future occupiers.

26. The Council also suggested a condition that would have required the submission and approval of a Construction Management Plan. However, this is unnecessary given the size of the development and the relatively limited amount of construction material that would be required. Another suggested condition that would have required the Local Planning Authority's written approval to alter the position of the caravans is also unnecessary, as this matter is covered by the wording of condition 6.

27. A personal condition that would have restricted the occupancy of the site to the appellant and the family group was discussed at the hearing. However, for the reasons set out in this Decision, the appellant's personal circumstances are not determinative in this case and so a personal condition is unnecessary.

28. A number of other conditions were also suggested at the hearing that related to matters outside of the planning regime. As these matters are not relevant to planning, they are unnecessary in this case.

Overall Balance and Conclusion

29. For the above reasons, I conclude that the development would not result in a cumulative domination of the settled community or any harmful social imbalance. Any effect on the surrounding landscape and the local environment would be minor and could be mitigated by planning conditions. Moreover, the Council is unable to demonstrate a 5 year supply of gypsy and traveller sites, and there is a significant unmet need for new pitches in the District that is unlikely to be resolved in the near future.

30. In addition, the development would comply with the locational and suitability requirements of Policy SWDP17 and would therefore accord with the most directly relevant Development Plan policy. There are no material considerations in this case that indicate that the proposal should be determined other than in accordance with the development plan.

31. Accordingly, for the reasons given above, I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this Decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Scale 1:500; Location Plan 1:1250; Post & Rail Fence 1:20; Elevations & Floor Plan 1:50; North & South Elevations 1:50.

3) 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 (or its equivalent in replacement national policy).

4) Prior to any caravans being brought onto the site, a scheme of landscaping and a schedule of maintenance shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include indications of all existing trees and hedgerows on the land and identify those to be retained.

   All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the first caravan being brought onto the site.

   The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

5) Prior to any caravans being brought onto the site, the proposed access route, shared driveways, turning areas, and parking spaces shall be surfaced and constructed in accordance with drawing Ref Site Layout Scale 1:500, and shall thereafter be retained.

6) No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 6 shall be static caravans) shall be stationed on the site at any time. The caravans shall be sited in accordance with drawing Ref Site Layout Scale 1:500.

7) No vehicle over 3.5 tonnes shall be stationed on the site.

8) No commercial activities shall take place on the land, including the storage of materials.

9) No construction shall take place other than between the hours of 0800 to 1800 Monday to Friday, 0900 to 1400 on Saturdays, and not at all on Sundays or Bank / Public Holidays.

APPEARANCES

FOR THE APPELLANT:

P Brown	Planning Consultant
J Boswell	Appellant
S Price	

FOR THE LOCAL PLANNING AUTHORITY:

K Smith	Wychavon District Council
D Duggan	Wychavon District Council
A Bennett	Wychavon District Council

INTERESTED PERSONS:

Cllr R Lasota	Ward Councillor
Cllr P Wilson	Cleeve Prior Parish Council
Cllr R Soloman	Cleeve Prior Parish Council
Cllr I Robinson	Cleeve Prior Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

1 Planning Committee Minutes, dated 25-07-2019, relating to application Ref 19/00140/OUT (an application for outline planning permission for up to 80 dwellings and open space on land at Evesham Road, Cleeve Prior).