



Appeal Decision

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 03/06/2024

Appeal reference: CAS-02937-S9V9X3

Site address: The Old Telephone Exchange, Crick Road, Crick, NP26 5UT

- 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 R Tapsell against the decision of Monmouthshire County Council.
 - The application Ref: DM/2022/01410, dated 29 September 2022, was refused by notice dated 6 April 2023.
 - The development proposed is outline planning application for removal of existing residential caravan, demolition of converted outbuilding and construction of detached dwelling.
 - A site visit was made on 3 May 2024.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is submitted in outline, with only access to be considered at this stage. There is sufficient information to determine the appeal on this basis.
3. It is common ground that the applicants meet the definition of '*Gypsy and Travellers*' as set out in national policy and, despite the fact that they do not travel as frequently as they used to, they continue to identify as such. I have no reason to dispute this agreed position and shall consider the appeal accordingly.

Main Issues

4. These are: whether the development would be acceptable in principle, having particular regard to the planning policy framework; and whether any identified harm or policy conflict would be outweighed by the material considerations in favour of the proposal.

Reasons

5. The appeal relates to a parcel of land located along the western flank of Crick Road, near Crick in Monmouthshire. The land is lawfully occupied by a residential caravan and

incorporates an outbuilding which has been converted into a 'day room' for use by the occupants of the caravan. The evidence suggests that the residential use of the land dates back to around 2003, when a personal planning permission was granted on the basis of the applicant's 'Gypsy and Traveller' status and the exceptional need for residential accommodation. The names of the beneficiaries of the personal planning permission were subsequently amended, however, through a permission granted in 2018. The appeal proposal seeks outline planning permission to remove the existing residential caravan and to demolish the converted outbuilding, and to replace those structures with a detached residential dwelling. The appellant has confirmed that the proposal is for a permanent residential dwelling, with no restriction on its occupation.

6. The appeal site is located outside of the settlement boundaries defined within the adopted Monmouthshire County Council Local Development Plan (2014) (LDP) and is therefore classified as countryside for the purposes of planning policy. Both the adopted LDP and national policy seek to strictly control development within such areas, with the proposed development failing to comprise one of the residential exceptions identified in Policy S1 of the adopted LDP. The appeal site is accessed directly off Crick Road and is not served by a pedestrian footway. The proposed dwelling would, therefore, inevitably be reliant on the use of the private car. Accordingly, the proposed development would conflict with the development strategy advocated by the adopted LDP and would also run counter to the sustainability principles that underpin national planning policy. Candidate site proposals for land within close proximity to the appeal site do not alter this position, not least because they have not been progressed to an adopted development plan.
7. The fact that the land is lawfully occupied for residential purposes is clearly an important material consideration. However, as set out above, the current residential use was permitted under what was/ is a generally a permissive policy position for 'Gypsy and Traveller' sites outside settlement boundaries. That same level of policy support is not however offered in this instance given that the proposal is for 'bricks and mortar' accommodation. Indeed, paragraph 11 of Welsh Government (WG) Circular 005/2018: *Planning for Gypsy, Traveller and Showpeople Sites* (2018) confirms that: "*The definition of a Gypsy and Traveller site for the purposes of this Circular does not include a dwelling (i.e. housing that falls within Use Class C3 under the Town and Country Planning [Use Classes] Order 1987 [as amended]). Those Gypsies and Travellers who wish to live in bricks and mortar accommodation will have their needs met through provision of appropriate housing...*"
8. I was able to appreciate at the time of my site inspection that the site is characterised by its existing residential use, with residential structures and paraphernalia clearly visible from public vantage points. However, whilst I accept that this weighs in favour of the appeal proposal, I do not consider that such weight is substantial. Indeed, the proposed residential dwelling would clearly have an increased level of permanence relative to the existing situation and such concerns are further reinforced by the fact that the current residential use of the land is restricted to the current occupiers of the site. As set out above, the appeal proposal seeks planning permission for a permanent residential dwelling that would not have its occupancy restricted. On the basis of such factors, I do not consider the existing residential nature of the site to justify the proposed development.
9. I note the appellant's arguments that the development is necessary for reasons of security and general well-being. However, such arguments have not been substantiated by any cogent evidence. Accordingly, I do not consider that they justify the development. Similarly, whilst I have no reason to dispute the energy efficiencies that could be obtained through the construction of a dwellinghouse, I have not seen anything that discounts the

benefits of a new caravan. Notwithstanding this, there would be significant energy and carbon costs associated with the construction of a new build property. I therefore consider that such arguments merit limited weight in the planning balance. Moreover, whilst much of the appellant's evidence refers to the proposal as compliant with affordable housing policies, I have not seen anything to suggest that the proposal is for an affordable dwelling, as defined by national policy, and neither is the proposal supported by a legal agreement that would secure the dwelling as such in perpetuity.

10. I have considered the wider legislative framework given the occupants '*Gypsy and Traveller*' status. However, I am satisfied that the refusal of planning permission would not disproportionately interfere with the rights arising from the Human Rights Act 1998 and the Equality Act 2010. Indeed, the appellant and the other residential occupants of the site would not be made homeless should planning permission be refused and no health, educational or any other specialist needs have been advanced as significant material considerations. Alternative '*bricks and mortar*' accommodation has also not been fully explored by the appellant, meaning that I have not seen anything to lead me to conclude that alternative housing could not be found through either the existing housing stock or through an alternative proposal that would be compliant with the extant planning policy framework.
11. Therefore, on the basis of the foregoing analysis, I find that the development would run counter to Policy S1 of the adopted LDP which provides a presumption against new, unjustified dwellings in the open countryside. It would also run counter to the thrust of national policy which seeks to strictly control development within such areas. For the aforementioned reasons, the development would also not be justified by the policy framework that exists for '*Gypsy and Traveller*' sites. The development would, therefore, be unacceptable in principle and I have not seen anything to lead me to conclude that there are material considerations that either individually or cumulatively outweigh the identified harm and policy conflict. For this reason, and bearing in mind the fact that such matters could not be satisfactorily addressed through the use of planning conditions, I conclude that the appeal should be dismissed.
12. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR