

APPEAL ALLOWED

Appeal by Mr Rook

The removal of conditions 1 and 2 (to permit un-restricted occupancy of the site) of planning permission 9/988/663 at Blue Post Caravan Burton Road Egginton Derby (9/2002/0129)

The application was refused permission for the following reason(s):

1. *The planning permission 9/988/0663 was granted subject to a condition that the permission would expire once the land ceased to be occupied by the persons named in the planning permission. The Council is satisfied that as a matter of fact and degree that the site has been without caravans or mobile homes for a period in excess of three years and the provisions of Condition 2 of the planning permission have been triggered. Thus the removal of the conditions attached to that permission would be tantamount to granting permission in principle without consideration of evidence of more generalised need that is required by the provisions of Development Plan policies.*

And against the refusal of the formation of a gypsy caravan site with three caravans (two families) at Blue Post Caravan Burton Road Egginton Derby (9/2002/1292)

That application was refused permission for the following reason(s):

1. *The site lies within the Trent and Mersey Canal Conservation Area wherein there is a duty on the Authority to consider whether development would preserve or enhance the character or appearance of the Conservation Area. Adjacent to the site are two listed structures, Highbridge House and High Bridge, both assessed as Grade II in importance. Environment Policies 12 & 13 of the adopted South Derbyshire Local Plan seek to ensure that development is appropriate to the character or appearance of the listed buildings and the Conservation Area. Housing Policy 15 of the adopted South Derbyshire Local Plan sets criteria against which proposals for gypsy sites will be assessed. Amongst these are requirements for a site to be assimilated into its surroundings, be satisfactory in environmental terms and satisfactorily located in relation to other development. The site, although previously benefiting from a temporary planning permission, now lapsed, is an unwarranted intrusion into the Trent and Mersey Canal Conservation Area and is detrimental to its character and appearance. It also has a significantly detrimental impact on the character and setting of the listed buildings. Whilst acknowledging its previous temporary use, the site is unsuited for permanent use as a gypsy caravan site for the reasons stated above and is contrary to the provisions of the stated adopted Development Plan policies.*

2. *The additional traffic generated by the development would affect the free flow and safety of traffic on the A38 Trunk Road.*

The inspector considered the main issues to be:

- (1) The effect of the proposals on the character and appearance of the countryside, the Conservation Area and the settings of the listed buildings.
- (2) The effect of the proposals on the free and safe flow of traffic.

The inspector noted the main points of SP Housing Policy 8 which allows for the provision of gypsy caravan sites subject to scale of demand, the proposal being capable of sympathetic assimilation with its surroundings and good access to a main roadwork without causing unacceptable traffic or road safety problems.

ELP Policy H11 requires that new proposals for gypsy sites must demonstrate that demand cannot be met by existing sites but the inspector noted that the appeal site is not new and is recognised as an authorised private site within the policy. Evidence was also presented at the hearing to suggest that the capacity previously mentioned in Policy H11 is no longer available and that there is an unsatisfied demand for gypsy sites and the inspector therefore considered that the proposals met with the criterion of SP Housing Policy 8.

The inspector considered that the main point in both appeal cases was whether the land had ceased to be occupied and if so the proposals should be regarded as a new site taking into account the impact on the countryside, the Conservation Area and the settings of the listed buildings and the traffic conditions.

Although the caravans had been removed from the site, the appellants still maintained contact with the site and the inspector felt their absence might be considered part of their nomadic existence. The planning permission did not specify a time limit for occupation within its conditions although it was intended to be of a temporary nature.

The inspector noted that the caravans may appear obtrusive within the context of the Conservation area and listed buildings but concluded that they would be no more obtrusive than development that could be carried out under the present permission. He considered that with careful screening and control over the boundary walls, these problems could be met by a landscaping condition and selective withdrawal of permitted development rights to overcome the problem.

Accordingly he allowed both appeals.

APPEAL DISMISSED

Appeal by Mr Sykes

The erection of a detached house and two detached garages at 1 Burton Road Castle Gresley Swadlincote (9/2003/0157)

The application was refused permission for the following reason(s):

- 1. The proposal would result in the loss of car parking space associated with the existing premises increasing the demand for on street parking in close proximity to the junction of Burton Road and Linton Road whilst increasing the use of the substandard access contrary to the best interests of highway safety.*

The appeal was dismissed on the grounds that it had not been demonstrated that parking and turning for the proposed and existing dwellings could be satisfactorily provided within the site. The Inspector felt this would be necessary because the site and 1 Burton Road are located close to a junction where visibility is restricted and where parking on the highway and reversing manoeuvres would be materially harmful to highway safety. The Inspector also considered that the increased use of an access with substandard visibility would be detrimental to highway safety.

APPEAL DISMISSED

Appeal by Mrs Roberts

Outline application (design, external appearance and landscaping to be reserved) for the erection of a detached dwelling on Land Forming Part Of The Side Garden Of 15 Canal Bridge Willington Derby (9/2003/0560)

The application was refused permission for the following reason(s):

1. *Approval of the proposal would result in an increase in the use of an access onto a classified highway that is severely substandard in terms of visibility for emerging drivers and pedestrian/vehicle intervisibility, contrary to the best interests of highway safety. Approval of the proposal would also result in an increase in the use of an access that is unsuitable for further residential development being single width and where the man-carry distance exceeds the recommended 25 metres.*

The inspector considered the main issue to be the effect of the proposed development on highway safety in the vicinity of the site.

The inspector noted that the junction of the lane with Canal Bridge was already close to the bridge itself and that there was limited visibility to the north that was further restricted by the presence of walls and hedges immediately at the junction. He noted that the visibility of a driver emerging from the access 2 metres back from the carriageway edge and at an approximate height of 1.05 metres was approximately 35 metres to the south and 29 metres to the north measured along the carriageway edge. This is far below the distances recommended in Places, Streets and Movement of 90 metres in each direction.

The inspector also noted the Highway Authority's comments that pedestrian visibility is already substandard and that additional vehicular movements in the restricted width of the lane would further prejudice the highway safety and any additional traffic generated by a further dwelling should be resisted.

He recognised the personal circumstances of the appellant and her wish for her son to occupy the proposed dwelling to be able to offer more care but expressed concern that ultimately both the existing and proposed dwellings may be occupied by families resulting in a further increase in traffic.

The inspector concluded that the highway conditions could not be overcome by any minor alterations to the highway and that the proposed development would be detrimental to highway safety in the vicinity of the site.

Accordingly he dismissed the appeal.

APPEAL DISMISSED

Appeal by Mr Macarthy

The erection of one detached dwelling and garage on land adjoining 79 Ashby Road East Bretby Burton-on-Trent (9/2002/0738)

The application was refused permission for the following reason(s):

1. *The site is located within the open countryside and Green Belt where there is a presumption against new residential development. No very special circumstances have been advanced with the application and development of the site is therefore contrary to the provisions of Green Belt Policy 3 of the South Derbyshire Local Plan and General Development Strategy Policy 7 of the Derbyshire Structure Plan as well as relevant national planning policy guidance.*

The inspector considered the main issue to be whether the proposal would represent inappropriate development in the Green Belt and, if so, whether there are very special circumstances to outweigh its harm by reason of inappropriateness and any other harm.

The inspector considered that General Development Strategy Policy 7 of the Structure Plan was the most relevant to this appeal providing strict control over new development within the Green Belt other than in specified circumstances including infilling in existing villages provided that it does not affect the open character of the Green Belt.

The inspector established that the appeal site is on the edge of the ribbon development known as Stanhope Bretby outside any established village or settlement and within a designated area of Green Belt and although the proposed dwelling could be considered to be infill development it does not comply with national and development plan policies that seek to protect the Green Belt. The proposal would therefore represent inappropriate development within the Green Belt.

He considered that the openness of the Green Belt would be significantly harmed by the proposed dwelling and garage, which would be clearly visible from the surrounding area.

The inspector concluded that there were no very special circumstances to outweigh the harm identified and the appeal was dismissed accordingly.