

Appeal Decision

Hearing held on 5 April 2017

Site visit made on 5 April 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 15 June 2017

Appeal Ref: APP/H1705/W/16/3164854

Land at Violet Lane, Baughurst RG26 5LP

- 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 G Jones against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 16/01539/FUL, dated 28 April 2016, was refused by the Council by notice dated 4 November 2016.
 - The development proposed is change of use from paddock to 4No gypsy pitches and associated works.
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Decision

1. I dismiss the appeal.

Application for Costs

2. An application for costs had been made prior to the Hearing, by Mr G Jones against Basingstoke & Deane Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Drawing 15/37:01B dated September 2015 was submitted with the application but a further drawing of the same revision number and date was attached to the appellant's Appeal Statement showing a more accurate depiction of the size of the static mobile homes. It was agreed that since the size of these items could be a matter for a condition listing the legislation that defines a caravan, the revised drawing is acceptable for consideration at Appeal.
4. At the close of the Hearing there were various matters that, in the interests of fairness, the appellant needed time to consider and address. These included the recently published Gypsy, Traveller and Travelling Showpeople Accommodation Assessment and information on highway and traffic that was only presented at the Hearing. A timetable for comments and rebuttals was set in order that these matters may be fairly considered in this Decision.

Main Issues

5. These are;
 - The effect of the proposal on the aims of sustainable development, as to the location of the site and whether the occupiers would be dependent on
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the use of a private vehicle to access services and facilities for day-to-day living.

- The effect of the proposal on highway safety.
- The effect of the proposal on the landscape character and appearance of the area.
- Whether there are other considerations, including the need for pitches, and the supply of alternative sites, which outweigh any harm identified.

Reasons

Policy Background

6. Policy CN5 of the Basingstoke and Deane Local Plan 2011-2029 is specific to gypsies, travellers and travelling showpeople, and sets out the Council's intention of providing for their needs with 16 additional pitches and 3 temporary stopping places through the provision of plots and/or pitches as part of greenfield allocations. Applications for sites other than those allocations will only be permitted where there is an identified need; there is no adverse impact on local amenity, the natural or historic environment; the site is within a reasonable distance of local services; there is safe and reasonable access to the highway; adequate on-site facilities are provided; the potential for a mix of uses has been demonstrated; and there is potential for successful integration between travelling and settled communities.
7. Transport is the subject of Policy CN9 with promotion of transport choice, and with development seeking to minimise the need to travel; development will be permitted that does not compromise highway safety among other considerations. Policy EM1 on landscape requires proposals to be sympathetic to the character and visual quality of the area concerned; respect, enhance and not be detrimental to the character or visual amenity of the landscape likely to be affected, paying particular regard to various criteria. High quality development is the aim of Policy EM10.
8. The Council submitted their Gypsy, Traveller and Travelling Showpeople Accommodation Assessment of March 2017 to the Hearing together with a commentary. This stated that *'the planning policy context has not been fundamentally altered, as ultimately there is still currently an unmet need for pitches in the next 5 years. However, the need stemming from those households which have been established as meeting the new PPTS definition has now reduced and this low level of need may be considered of relevance in the decision making process when issues such as the current lack of available pitches is weighed against other issues such as the harm identified in the reasons for refusal and other factors such as the Council's strategy for making provision for pitches on the housing allocation sites as per policy CN5 in the Local Plan'* That statement will be considered later in the Decision.
9. Planning Policy for Traveller Sites of August 2015 is the most recent statement of Government policy with regard to such site provision and the introduction states the Government's overarching aim to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers, while respecting the interests of the settled community.

10. Decisions on traveller sites should also have regard to the policies in the Framework so far as relevant, and this document states the presumption in favour of sustainable development and sets out the three dimensions of such development. The core planning principles include conserving and enhancing the natural environment; actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling; and focusing significant development in locations which are or can be made sustainable.

Site Location

11. The site is in an open countryside location, but not significantly away from settlements in the terms of paragraph 25 of Planning Policy for Traveller Sites. That statement of policy allows for sites to be in rural areas provided the scale does not dominate the nearest settled community.
12. In addition to the wording of Policy CN5 seeking sites within a reasonable distance of local services, the supporting text refers to sites being accessible with convenient access to local services, and with regard to sustainability, sites in or near existing settlements are stated to be more likely to have reasonable access to services. This clearly does not preclude a rural site.
13. There are footpaths and bridleways providing off-road access to the main services as shown in the Council's Appendices, but whilst Footpath 13b provides the most direct route, this would not be available all year as a viable or attractive way of gaining access for schools or shopping. The bridleway 15 appears a useful short-cut to the public house and the main road, but was found at the site inspection to be in a virtually impassable state, significantly rutted and water-logged as far as a farm gate due to agricultural traffic, and beyond that deteriorating into a morass of deep mud and puddles. Whilst it would be possible to use this path on foot, its condition in April indicated that this would be unlikely due to the spread of mud on shoes and clothes, and the slow progress would militate against its use, the road being a faster route. Cycling or pushing a buggy would not be possible at the time seen.
14. That leaves the roadway of Violet Lane and its links from the north and south ends on more major roads. The appellant states that the route from the north end is used to gain access to the bus stop, a public house and a chip shop. The Council's view is that the road is not an attractive route for walking or cycling due to its width and limited places to step off the carriageway to let vehicles pass. However, the lane is not unusual as a rural highway and there is adequate forward visibility so that walkers or cyclists would not be likely to feel vulnerable, in addition a horse rider was seen at the site inspection, so that clearly the lane is used for such slow speed recreational use. It appears unlikely that the lane would be used as a short-cut for drivers in view of its nature, and the main roads being so close.
15. However with regard to the Policy CN5 requirement, the somewhat circuitous routes likely to be taken for much of the year would reduce the degree to which the site can be said to be within a reasonable distance as a walking or cycling route. Whilst it would be possible to make use of modes of travel other than the private car, the likelihood is that vehicles would be used.
16. With regard to the relationship with the settled community, the Council refer to there being three detached properties nearby, and that the proposal for 4 pitches would dominate them as sought to be avoided in paragraph 25 of

national guidance. That requirement should not be seen as just a matter of numbers and proximity. The three houses consist of one some way to the north and two near the junction of footpath 13b and Violet Lane to the south. The proposed 4 pitches would be separated from each of the dwellings by open land and other uses such as stabling and paddocks, and whilst the proposal would introduce activity and vehicle movements, as will be considered later, the proximity and size of the proposal would not amount to domination.

17. The other consideration is the opportunity for successful integration between travelling and settled communities as sought in Policy CN5 and paragraph 13 of Planning Policy for Traveller Sites. Whilst considered distant in policy terms, the additional occupiers would assist in the economic and social sustainability of local shops and services, and the opportunity does exist for integration through such shared use. The site is not so divorced from the more densely populated settled communities of Baughurst and Tadley as to prevent successful integration.
18. In conclusion on this issue, whilst the opportunity may exist at times to make reasonably direct journeys on foot and by cycle, the more circuitous routes by road are more likely to be made use of and for them, the private vehicle would likely be used as the predominant form of transport. Two of the criteria in Policy CN5 would not be fully met due to the isolated location of the site, and there would be a limited possibility of promoting transport choice as sought in Policy CN9. Whilst there are public transport options available, by starting the journey in a private vehicle for a significant distance, the possibility is of the vehicle being used throughout. Nevertheless, only moderate weight attaches to this matter as the site is not so removed from the settled community as to be considered unduly remote.

Highway Safety

19. It is clear that a safe access onto Violet Lane can be provided, although the visual impact will be considered in the next main issue. The swept-path analysis provided by the appellant shows that towing vehicles can manoeuvre within the site so that they can enter and leave in forward gear. There was some dissension from this finding expressed at the Hearing and subsequently as invited, but the fact appears to be that if a different layout of fences were to be built, the swept path would be altered and it is not appropriate to use the same geometry on any new layout. In addition, the appellant states that powered caravan 'movers' are used to position the items rather than by towing; there would be no need to enter the site and leave in one operation attached to a vehicle. A condition requiring a Site Development Scheme would allow further study and approval of such matters as gate widths and fence locations, to ensure safe use of the access.
20. The lane is narrow and has limited passing places, although good forward visibility and the limited speeds due to its condition means that the lane is not unusually hazardous in use, evidenced by horse riders, runners, cyclists and walkers seen at various times. As stated, there would not appear to be benefit in through traffic using the lane to avoid other better roads nearby.
21. There was a difference in opinion as to the traffic generation of the proposed siting of four static caravans, the appellant's choice of a residential caravan site may not account for the same demographic make-up as the likely use of the appeal site for gypsy families, having regard to the 2015 change to the

definition and whether 'retired' travellers would be eligible to stay. The Baughurst Society's evidence as to trip generation does appear the more robust, in that the observed use of the Leatherhead site compares well with the data for the Hartfordbridge site. Whilst there may be reasons to consider numbers less than the indicated 37 movements, that figure from the Society's evidence is 2.5 times that put forward by the appellant. Although it is not possible to be precise, the weight of evidence suggests a figure nearer the 37 movements than the 16 (8 each way) put forward by the appellant.

22. The nature of those likely movements was also discussed, with concern expressed over the towing of caravans and the presence of large vehicles. On the first, the traveller lifestyle would necessitate long periods of seeking work and living in the touring caravan off-site, with only infrequent need to move the caravan along Violet Lane. It may be the case that the towing vehicle would be a van or flat-bed vehicle up to 3.5t, but having witnessed a large tractor towing a trailer, such combinations can safely use the lane. The likely lack of short-cut traffic would lead to the view that those vehicles using the lane would predominantly be driven by people aware of its limitations and opportunities to pull off the carriageway.
23. Similar views pertain with regard to the two access and egress junctions, although there the movement would include those not so well acquainted with the situation, using the main roads. To the north the triangular junction does present a blind turn in, but this is reasonably overcome by turning at the second limb of the triangle where full forward visibility is available. The outward manoeuvre is not unduly hazardous.
24. The southern junction with Baughurst Road is however sub-standard in its sightlines for traffic leaving the lane, with little or no opportunity to improve matters due to the ownership of land and the geometry of the junction. The junction is clearly shown on approach signs, and drivers aware of the limitations would exercise caution. As a risk assessment, the consequences of an accident could be severe, but on the evidence, the likelihood appears low, with no recorded personal injury events. However, there were numerous statements from local residents of non-injury incidents and near misses. Where a risk assessment combines a high level of severity of outcome and of likelihood of occurrence, the indication is to avoid the cause where mitigation cannot overcome the risk. Whilst that high level of risk is not warranted in this case, it is the case that the use of the junction can be avoided, with the site being conveniently located for use of the northern exit.
25. The conclusion on the evidence is that whilst the numbers of traffic movements may likely be nearer the 37 put forward by the Baughurst Society, the likelihood of users of the site being well-aware of any limitations, similar to how farmers and other users are at present, mean that the proposed use would not be contrary to paragraph 32 of the National Planning Policy Framework which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The proposal accords with the highway and transport requirements of Policies CN5 and CN9.

Character and Appearance

26. The landscape is not recognised under any national designation, but the site is set within a pleasant rural area of fields and woodland, interspersed with

streams and lanes, with ample footpaths and bridleways that, along with the lane, appear well-used. The state of the bridleway has been referred to, but as a leisure walk or ride, it had clearly been well-used. Having mind to the nature of the substantially built-up area to the north towards Aldermaston, the attractive landscape around the site appears valued for its recreational opportunities.

27. The site is at present open land but with informal buildings for horse grazing, and paddocks delineated with post-and-rail fences or tape nearby on both the blue-edged land controlled by the appellant and the adjoining fields. Whilst obvious man-made items in the landscape, the informal arrangement, low form and natural materials allow the buildings to be seen as a part of a working landscape, rather than as unwelcome intrusions. In some cases these buildings are subsumed within woodland to the rear of views, such as from footpath 13b, or are behind well-established hedgerows such as from bridleway 502. Whilst discussed in terms of access to services, the view from bridleway 15 of the horse-related use of land and associated buildings is very limited.
28. The red-line site is a narrow strip of land along the boundary with the lane, extending north-west from the site entrance to an existing boundary fence, but being just deep enough to allow an access-way to each pitch along the north-east boundary. The arrangement of the static mobile homes parallel to the lane and close to it, with the day-rooms between each pair, as shown on the drawing submitted with the Appeal Statement appears the most likely arrangement, particularly with regard to vehicle manoeuvring, and allowing for the minor changes that a full Site Development Scheme may permit.
29. The close views at the entrance and along the lane would be slightly more open as a result of some clearance to form the site area, and to guarantee the sightlines, but at such close places, the result would not be particularly harmful as the full extent of the line of structures would not be seen in one view. There would however be noticeable activity in addition to the likelihood of domestic paraphernalia, which would seriously adversely affect the tranquil rural character of the immediate area.
30. In more distant views from both the north and south, from the elevated position of footpath 11 and the more level position of footpath 13b, the caravans and day-rooms would appear as a regimented row of structures, appearing out of place and intrusive in the rural landscape. Whilst there may be scope to alter the design and materials of the day-rooms, as discussed at the Hearing, the static mobile homes would cause substantial visual harm perceptible over a significant area to the south and north from public places. The view from the open area of bridleway 502 to the west of Violet Lane would be of the roofs of the mobiles homes, which again would appear as an uncharacteristic and intrusive, regimented line of metal clad structures. The extent to which the harm would be lessened through the structures being seen against a background of woodland would be limited.
31. There would be the possibility of some further vegetation to all sides of the site, but in order to provide screening, the height would risk being in itself an intrusive form, signalling the existence of something that should be screened from view. As well as being contrary to the aims of paragraph 26d) of the Planning Policy for Traveller Sites, in giving the impression that the site and its occupants are being deliberately isolated from the rest of the community,

notwithstanding that this is a reference to fences, vegetation of sufficient height as to mitigate the harm from the mobile homes would itself be a jarring visual feature in this landscape of generally low-kept hedges and open views.

32. The proposed use and items brought onto the land would cause substantial undue harm to the character and appearance of the rural area, and would not accord with the requirements of Policy EM1 on being sympathetic to the character and visual quality of the area concerned, and would be detrimental to the character and visual amenity of the landscape. The regimented layout and numbers of mobile homes proposed would not result in a design of the standard sought in Policy EM10, and would not accord with the relevant criteria on protecting the environment in Policy CN5. This failure to accord with policy requirements on this issue attracts considerable weight due to the attractive and tranquil nature of a well-used landscape.

Other Considerations

33. The Council presented the Gypsy, Traveller and Travelling Showpeople Accommodation Assessment dated March 2017. The Council's evidence however remained that they were not able to demonstrate a 5 year supply of sites. As set out in Policy CN5, it is anticipated that sites will be provided along with general housing on strategic housing sites, but those discussed in more detail at the Hearing are at an early stage in planning and design, with much work to be done before sites become useable. The evidence from the appellant is that there are no vacancies on existing sites, even when looking to the neighbouring authority area, the boundary to which is not far from the site.
34. The appellant was critical of the Assessment, being of the view that it had been published without proper review. There are unanswered questions about how former gypsies who no longer qualify under the definition due to age, will be accommodated, and that change in the 2015 definition accounts for a large decrease in the need identified in the Assessment. The contribution of various unauthorised sites to the Assessment was unexplained. Although further information was provided in the post-event submissions, as requested, the fact remains that there is a lack of pitches which is quite likely to be more pronounced than that stated in the Assessment, and in any event, no five year supply.
35. Paragraph 14 of the Framework provides that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Policies of the Framework seek good design and recognition of the intrinsic character and beauty of the countryside, which should apply to this area, being well-used for recreational purposes. In the balance, the other considerations and the consequent benefits to the supply of traveller sites are significantly and demonstrably outweighed by the harm identified. The permanent use of the land as proposed would be contrary to national and local policy and is not justified by the benefits.
36. Paragraph 27 of the Planning Policy for Traveller Sites states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. In this case the level of shortfall appears likely

to be more than that acknowledged by the Council with limited progress evident in meeting that which has been identified.

37. Whilst the land is not within any of the exceptions listed, it is clearly well-used and valued being so close to the built-up area towards Aldermaston. In this altered balance of considering a temporary permission, the significant weight in favour of the proposal referred to in paragraph 27 is insufficient to overcome the considerable harm identified. In coming to that view the proposal for 4 pitches would go a long way to satisfying the need, but conversely is the cause of the regimented arrangement due to the size and shape of the site, particularly the narrow depth, and such a magnitude of provision on this size of site would be out of proportion to the scale of the landscape features. Whilst the harm would persist over only a temporary period of, say 5 years, the nature of the landscape makes it particularly sensitive to the harm caused and conditions over such a period would not be capable of satisfactorily mitigating the harm without introducing further undue effects.

Conclusions

38. There is conflict with Development Plan policies as set out above. Harm has been identified to the aims of sustainable development in the location of the site relative to the settled community and services, although only moderate weight attaches to this. The harm to the character and appearance of the area however attracts considerable weight. There are benefits in providing 4 pitches in an area that is unable to demonstrate a 5 year supply of sites with an unmet need that, on the evidence, could be greater than recently assessed.
39. The lack of supply and the apparently lengthy timetable for strategic housing sites to be able to provide pitches under Policy CN5 are considerations of significant weight as set out in Planning Policy for Traveller Sites, but that weight is insufficient in the balance to counter the considerable weight attached to the visual harm identified, even for a temporary period. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

N Williams	Principal Planning Officer Basingstoke and Deane Borough Council
M Sheppard	Senior Highways Engineer Basingstoke and Deane Borough Council
A Rushmer	Senior Planning Policy Officer Basingstoke and Deane Borough Council

FOR THE APPELLANT:

J James	Director J J Planning
J Chequer	Highway consultant JMP Consultants
G Jones	Appellant
G Jones	in support of appellant

INTERESTED PERSONS:

M Slatford	Chairman Baughurst Parish Council and supported by other residents.
A Smith	Fowler Architecture and Planning on behalf of the Baughurst Society
D Wiseman	Stuart Michael Associates on behalf of the Baughurst Society

DOCUMENTS

Document	1	Statement of Common Ground submitted jointly by Council and appellant
Document	2	Gypsy, Traveller and Travelling Showpeople Accommodation Assessment March 2017 and explanatory e-mail submitted by Council
Document	3	Drawing 15/37:01B submitted by appellant in Appeal Statement
Document	4	Swept path analysis based on drawing 15/37:01B, submitted by Council
Document	5	Letter from Mrs L Bruce re. Paices Hill Gypsy Caravan Site 21 March 2017 submitted by appellant
Document	6	Confirmation of taxi service e-mail 6 April 2017 submitted by Council
Document	7	Response to Document 2 10 April 2017 submitted by appellant
Document	8	Comments on Costs Rebuttal, 10 April 2017 submitted by appellant
Document	9	Letter 19 April 2017 on swept path analysis and Gypsy, Traveller and Travelling Showpeople Accommodation Assessment submitted by Fowler Architecture on behalf of the Baughurst Society
Document	10	Letter 26 April 2017 on access and the taxi service submitted by the Baughurst Parish Council
Document	11	Response to additional swept path analysis submitted by Council

Document	12	Response to comments on Gypsy, Traveller and Travelling Showpeople Accommodation Assessment submitted by Council
Document	13	Costs Rebuttal to addendum details Doc 8 submitted by Council
Document	14	Systra final comments on Doc 11 26 April 2017 submitted by appellant
Document	15	Systra final comments on Doc 9 26 April 2017 submitted by appellant
Document	16	Final overall comments 7 May 2017 submitted by appellant
Document	17	Final Costs comments 7 May 2017 submitted by appellant
Document	18	Plan of numbered rights of way as referred to, submitted by Council