

Appeal Decision

Hearing held on 20 June 2017

Site visit made on 20 June 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 14 August 2017

Appeal Ref: APP/C1760/W/16/3155960

Land north of junction of A30 with A3057, Leckford Lane, Stockbridge, Hampshire

- 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 Conrad Lane against the decision of Test Valley Borough Council.
 - The application Ref 16/00774/FULLN, dated 31 March 2016, was refused by notice dated 4 July 2016.
 - The development proposed is change of use of former chalk pit to create 1 Romany traveller pitch with associated ancillary development.
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Decision

1. I allow the appeal and grant planning permission for change of use of former chalk pit to create 1 Romany traveller pitch with associated ancillary development at Land north of junction of A30 with A3057, Leckford Lane, Stockbridge, Hampshire in accordance with the terms of the application, Ref 16/00774/FULLN, dated 31 March 2016, subject to conditions 1) to 14) on the attached schedule.

Application for Costs

2. At the Hearing an application for costs was made by Mr Conrad Lane against Test Valley Borough Council. This application is the subject of a separate Decision.

Main Issues

3. These are:
 - The extent of compliance with national and local policy on the provision of gypsy sites.
 - The effect of the proposal on the character and appearance of the Leckford Lane area.

Reasons

Gypsy and Traveller Policy Compliance

4. 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
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for travellers, in a way that facilitates the traditional and nomadic way of life of travellers, while respecting the interests of the settled community. Paragraph 25 states that new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan should be very strictly limited. Sites in rural areas should respect the scale of, and not dominate, the nearest settled community, and should avoid placing an undue pressure on the local infrastructure. That requirement is also stated in Policy C and makes clear that sites in rural or semi-rural area and countryside may be permitted. Decisions on traveller sites should also have regard to the policies in the National Planning Policy Framework so far as relevant.

5. Test Valley Borough Revised Local Plan Policy COM2 '*Settlement Hierarchy*' states that development outside settlement boundaries will only be permitted if, among other provisions, it is appropriate in the countryside as set out in Policy COM13 '*Gypsies, Travellers and Travelling Showpeople*'. This policy states that such development will be permitted provided that it complies with each of five criteria.
6. The site is outside the settlement boundary of Stockbridge, which extends only to the far side of the A30 roundabout just south of the site. To the extent that there is open farmland or woodland on all sides, including the river flood plain to the west, the site should be regarded as being in open countryside, but it is in close proximity to the settlement and there are other dwellings a little way to the north along the main road.
7. In preparation for the Hearing, both main parties referred to a forthcoming document, '*Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016 – 2036*' but were able to base their evidence only on the out-dated '*Forest Bus Gypsy and Traveller Accommodation Needs Assessment 2013*'. In the event, another of the consortium authorities published the 2016 assessment the day before the Hearing and the Council accepted that as it was now in the public domain, its findings should be considered at this appeal. The preparation of the proposed Development Plan Document would be delayed as a result of the findings of the assessment, in consequence of which the Council conceded that they would not be able to meet the identified 5 year need for 3 pitches by 2021.
8. The Council had previously accepted the gypsy status of Mr Lane in the Officer Report on the application, but their Hearing Statement contained the advice that '*on review, the Council now considers that this was an error*' and goes on to find that gypsy status had not been proved. Following discussion and evidence from Mr Lane as to his pattern of travelling and seeking scrap cars for supply to the Fire Service College at Moreton-in-Marsh among other contacts, the Council agreed that Mr Lane should be considered as a Gypsy for planning purposes. Annex 1 of Planning Policy for Traveller Sites sets out the considerations and this Decision proceeds on the basis of the appellant's gypsy status having been proved.
9. By the close of the Hearing the agreed position regarding the criteria in Policy COM13 was as follows;
 - a) *the site is located where services and facilities are accessible*; the site is within walking distance of the Co-Operative shop in Stockbridge along with its other facilities, accessible by a continuous footway.

b) the potential occupants are recognised as gypsies, travellers or travelling showpeople; this is agreed as previously stated.

c) the proposal helps meet the identified need; the findings of the 2016 accommodation assessment are that the need to 2021, however limited, will not be met through the adoption of the Development Plan Document as this has now been delayed.

d) evidence is provided to justify the reason for the proposal to be located in the Borough; the Council accept that this has been complied with, and that the appellant should be counted as being one of the 'unknown' needs as referred to in the assessment.

e) the site is of sufficient size to provide for accommodation; parking; turning and, where relevant, the servicing and storage of vehicles and equipment; this is the case and was an agreed position at the start of the Hearing. With the benefit of the site inspection, that position is concurred with.

10. As a result, the proposal accords with all of the criteria in Policy COM13 and as such complies also with the provisions in Policy COM2 as justification for development in the countryside outside the settlement boundary. The amount of development proposed would not dominate the nearest settled community and would not place undue strain on its infrastructure, and hence the proposal accords with the requirements of Planning Policy for Traveller Sites in that respect.

Character and Appearance

11. One of the core planning principles in the Framework is to recognise the intrinsic character and beauty of the countryside, and the environmental role of sustainable development includes contributing to protecting and enhancing the natural environment. Local Plan Policy E2 entitled '*Protect, Conserve and Enhance the Landscape Character of the Borough*' sets out requirements in order for development to be permitted. The Council's reason for refusal cites in particular criterion a) on not having a detrimental impact on the appearance of the immediate area, and criterion c) of ensuring that the existing and proposed landscaping and landscape features enable it to positively integrate into the landscape character of the area.
12. The site is a former chalk quarry, although there are no signs of that use having been carried on recently. The neighbouring landowner said that it was one of a number along the line of an old canal that were dug in order to provide material to fill it in for the construction of the railway. Clearly that was a long time ago. The site is within the Leckford and Chilbolton Chalk Downs landscape character area, described as being elevated, predominantly open and with 'large skies'. The land slopes to the river Test with dry valleys in the chalk, the valley bottom being a network of streams and trees.
13. There is a recent planning history of enforcement action against unauthorised use for open storage, plant and equipment, including a caravan; the erection of boundary fencing and gates; the erection of internal fencing; and the formation of an area of hardstanding. At a subsequent appeal the Notice was upheld (Appeal Ref APP/C1760/C/15/3035917, 21 January 2016). As a result of this action, it is not appropriate to attach any weight to these existing features of the site or their existing effect on the character and appearance of the area as

they should not be in place. Whilst some guarding to the higher levels of the former quarry where they abut other ownerships may be required, the existing appearance of the site should be regarded as being of open boundaries with some vegetation, and the cleared base of the one-time quarry.

14. The site has a frontage to Leckford Lane and is adjoined by an open arable field to the north and west, with another to the south. Along the road frontage there is a deep section of highway land with substantial vegetation, albeit much of it is deciduous, and that continues south along the road at some depth also. The roadside vegetation to the north is less dense and there is a wide field opening. Opposite the site is a layby and that marks the point where the Test Way leaves the roadside then takes the line of the closed railway behind hedging.
15. The visual effect of these arrangements, along with the topography of the former quarry, is that the site is seen directly through the gate when open, although the nature of any future gate would be a matter for a landscaping scheme. The proposed static caravans and day room would be visible, but there is scope within this large site for substantial vegetation, and it is clear that there are species that thrive on the poor chalky soil. The response to a landscaping condition should rely as much as possible on natural screening or filtering, in line with paragraph 26d) of Planning Policy for Traveller Sites which states that sites should not be enclosed with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
16. The view of the site is more shielded or filtered, according to the time of year, from the oblique viewpoints along the road and cut-off by intervening hedging for much of the approach along the Test Way. A view would be possible through the field opening to the immediate north, although the appellant owns sufficient of the top of the quarry escarpment to be able to establish vegetation.
17. With the intention being to not screen the site completely, the often fleeting appearance of the roof to the dayroom or the static caravans would pass mostly unnoticed due to the topography resulting from the previous use, in a way that would not be possible in the open downland more generally. Landscaping secured by condition could soften the effect sufficiently, and the nature of any hardstanding could be akin to the chalk floor of a quarry.
18. It is accepted that the quarry was at some time mostly overgrown, but there would have been no control over the removals that have apparently taken place, and in an area of managed agricultural landscape, such an overgrown area of land would have risked being unattractive in time. The granting of permission would provide a degree of control that is not available at present.
19. Turning then to the criteria in Policy E2;
 - a) *Impact on the immediate area and landscape character:* with conditions on landscaping the proposal would not have a detrimental impact on the appearance of the immediate area and the landscape character of the area within which it is located;
 - b) *Retention of important landscape features:* there are no important landscape features on the site worthy of retention;

c) Integration with the landscape character of the area: there is no existing landscaping but conditions can ensure that the proposed landscaping would positively integrate the use and development into the managed landscape character of the area;

d) Management of landscaping: a 5 year period for the replacement of vegetation that is lost in that period would provide a reasonable arrangement for the management and maintenance of landscaping;

e) Conservation of New Forest National Park and North Wessex Downs Area of Outstanding Natural Beauty: the site is not within these designated areas;

f) The loss of important local features such as trees, walls, hedges or water courses: the proposal does not have any of these adverse effects.

20. In that the site should presently be open and unused, once the Enforcement Notice has been complied with, the proposed use would introduce physical features and activity that are not permitted at present. However, the site is contained and can be successfully landscaped due to the space available, whilst taking heed of the warning in paragraph 26d) of Planning Policy for Traveller Sites on not appearing isolated from the community. The proposal accords with Policy E2 on its effects on the landscape character and appearance.

Other Considerations

21. Whilst not matters objected to by the Council, local residents and the Parish Council raise concerns over highway safety, water and sewerage provision.
22. The entry onto the main road already exists and is not a matter to be addressed under the Enforcement Notice. The extent of highway land between the red-line site boundary and the carriageway provides for sufficient sightlines considering the speed of traffic on the road, that large area being the result of a re-alignment when the railway line closed. The road is busy and the Parish Council stated that lorries use it to access storage facilities at Andover. There is also a sign just south of the site warning of this being a high-risk route, but it is clear that the risks further north are more pronounced, with narrow bridges and double bends, for the sign to be an advance warning. There do not appear to be any particular hazards associated with the use proposed and the entry onto the highway in this location.
23. The proposal is for a private water supply by way of a borehole, and the neighbouring land user confirms that he has used such a source for stock watering. The Council propose a condition controlling the installation, which appears robust and enforceable. The use of boreholes in chalk aquifers is not unusual and subject to conditions, this provision would be acceptable.
24. The concern over the disposal of domestic drainage stems from the risk of pollution to the aquifer and other boreholes. Whilst the proposal is for the use of a septic tank, which relies on French drains to disperse treated liquids, and percolation tests would be required to avoid surface puddling, this may not be the best solution, with a sealed cess-pit and emptying when required being a possible alternative. This is a matter that can be addressed by condition.

Conditions

25. The Statement of Common Ground Version 4 contained agreed conditions, and there was discussion at the Hearing as to the extent to which the use is retrospective, but the associated ancillary development as applied for has not begun. For those reasons it is not appropriate to attach a commencement condition. A condition naming the drawings would still be appropriate as set out in the web-based Planning Practice Guidance at Paragraph: 022 Reference ID: 21a-022-20140306 as specifying the application drawings is best practice and creates certainty for all parties, particularly where applications have been subject to a number of revisions.
26. This Decision does not rely on the personal circumstances of the appellant or the lack of a 5 year supply of sites, as the site has been found suitable for permanent use in line with national and local policies on the provision of gypsy and traveller sites. It is sufficient to attach an occupancy condition requiring that the site shall only be occupied by persons who satisfy the definition of gypsies and travellers in Annex 1 of Planning Policy for Traveller Sites.
27. There should be a condition limiting the number of caravans, and further details should be provided of the proposed dayroom including its slab level, for which reasons these details are required prior to commencement of the construction, and not as originally drafted, only when construction had reached at damp proof course level. It is appropriate to restrict the size of vehicles, to prohibit commercial activities and the storage of materials, and not allow unauthorised external lighting, all in the interest of visual amenity.
28. A landscaping scheme should include details of car park layout and cycle storage provision, so that a holistic design can be proposed, and a separate condition on those matters is not required. The scheme should also include details of site and slab levels to provide control over the extent of visibility from outside the site. The draft condition expects the Council to have approved the scheme within the same 3 months, which is not a matter under the appellant's control.
29. There was reference to the site having been used a rubbish dump, but that was clarified as being fly-tipping. However, in view of the previous quarry use and the more recent unauthorised use the subject of the Enforcement Notice, it is necessary include a suite of conditions addressing possible contamination. The initial scheme should include a programme for the investigation in view of the partly retrospective nature of the application. As referred to previously, there is a need for conditions on the private water supply and the sewerage system.

Conclusions

30. In the context of the need for sites, and the compliance with all criteria in the gypsy and traveller Policy COM13, the site is a suitable location for the gypsy and traveller use proposed. Furthermore, the development to facilitate the use would not cause harm to the character and appearance of the area, with conditions to ensure suitable landscaping and other provisions. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth
INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

L McKay	Principal Planning Officer Test Valley Borough Council
J Ryan	Planning Policy Officer Test Valley Borough Council

FOR THE APPELLANT:

T Phillips W Sherred C Lane	Thurdleigh Planning Consultancy Gypsy Council Representative Appellant
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INTERESTED PERSONS:

R Foord R Colenso	Neighbouring landowner Stockbridge Parish Council
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DOCUMENTS

Document	1	Statement of Common Ground Version 4 April 2017 signed and submitted jointly
Document	2	' <i>Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016 – 2036</i> ' submitted by Council
Document	3	Additional Policy Statement on Document 2 submitted by Council
Document	4	Letters in support of gypsy status submitted by appellant
Document	5	Letters concerning personal circumstances submitted by appellant
Document	6	Costs Application submitted by appellant
Document	7	Costs Rebuttal submitted by Council
Document	8	Final comments on Document 7 submitted by appellant

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: TP 03B, TP 04, TP 05A, TP 06, TP 07, TP 08, TP 09.
- 2) 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).
- 3) There shall be no more than 1 pitch on the site, on which no more than four caravans, as defined in the Caravan Sites and Control of Development Act 1968 and the Caravan Sites Act 1968, (of which no more than two shall be static caravans) shall be stationed on the site at any time. No caravans shall be stationed on the site other than in the locations shown on the approved plan TP 03B unless otherwise agreed in pursuance of conditions attached to this permission.
- 4) No construction of the day room hereby approved shall take place until details of the slab level and samples and details of the materials to be

used in the construction of all external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

- 5) Within three months of the date of this decision a scheme of hard and soft landscaping shall have been submitted to the Local Planning Authority, the details of which shall include:-
 - (a) planting specifications, including location, density, size, species of all planting;
 - (b) details of the location, materials, finish and height of all boundary treatments;
 - (c) details of the materials and extent of all hard surfacing;
 - (d) details of the provision to be made for a minimum of 4 car parking space and 4 cycle parking spaces;
 - (e) a programme of implementation.

The landscaping shall thereafter be carried out in accordance with the approved programme of implementation. Any trees or plants which comprise the soft landscaping of the site which die, are removed or become seriously damaged or diseased within a period of 5 years from completion of the landscaping scheme shall be replaced in the next planting season with others of similar size and species. The provision of a minimum of 4 car and 4 cycle spaces shall thereafter be permanently maintained within the site.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 8) No external lighting shall be installed on the site unless in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 9) No development shall take place until an assessment of the nature and extent of any contamination on the site has been submitted to and approved in writing by the Local Planning Authority. The assessment shall be undertaken by a competent person and shall assess the presence of any contamination on the site, whether or not it originates on the site. The assessment shall comprise at least a desk study and qualitative risk assessment and, where appropriate, the assessment shall be extended following further site investigation work.
- 10) In the event that contamination is found, or is considered likely, as a result of the contamination assessment undertaken pursuant to condition 9), a scheme containing remediation proposals designed to bring the site to a condition suitable for the intended use shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of remedial works and measures to be undertaken to avoid risk from contaminated land and/or gases when the site is developed, a programme for the carrying out of the works and proposals for future

maintenance and monitoring. The scheme shall include nomination of a competent person to oversee the implementation of the works.

- 11) In the event that contamination is found, and remediation work is carried out in accordance with the details and programme approved under condition 10), verification by the approved competent person that the remediation has been implemented fully in accordance with the approved details shall be submitted to the Local Planning Authority. Unless agreed in writing by the Local Planning Authority such verification shall comprise:
- a) as completed drawings or other details of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination;

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 10).

- 12) In the event that contamination (that was not previously identified) is found at any time during construction works, the presence of such contamination shall be reported in writing to the Local Planning Authority without delay and development shall be suspended on the affected part of the site until a remediation scheme for dealing with that contamination has been approved in writing by the Local Planning Authority. The approved remediation scheme shall be implemented and, if requested, a verification report, for the purpose of certifying adherence to the approved remediation scheme, shall be submitted to the Local Planning Authority.
- 13) No on-site works in connection with the foul water drainage system shall commence until full details of the system, including a percolation test if a septic tank or similar is proposed, have first been submitted to and approved in writing by the Local Planning Authority. The foul water drainage system shall thereafter be installed in accordance with the approved details and maintained in working order.
- 14) The proposed private water supply borehole shall be installed by a competent person so as to be compliant with the Private Water Supplies Regulations 2009 and Regulation 31 of the Water Supply (Water Quality) Regulations 2000. The water supply shall not be used until a report demonstrating that the water is wholesome (as defined by the Private Water Supplies Regulations 2009) has first been submitted to and approved in writing by the Local Planning Authority. In the event that contamination is identified as a result of the investigations required or during the development process the schedule of water tests shall be increased to reflect this additional knowledge in accordance with details that have first been agreed in writing by the Local Planning Authority.