



Appeal Decision

Hearing held on 22 November 2017

by David Smith BA(Hons) DMS MRTPI

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

Decision date: 7th December 2017

Appeal Ref: APP/W0340/W/17/3170267

Bluebell Stables, Curridge Road, Curridge, Berkshire, RG18 9DL

- 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 J Buckland against the decision of West Berkshire Council.
 - The application Ref 16/03303/FUL was refused by notice dated 13 January 2017.
 - The development proposed is use of land as a gypsy and traveller caravan site consisting of 2no pitches, each with 1no mobile home and 1no touring caravan and conversion of existing stables building into utility dayroom and farrier's workshop.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - The effect on the landscape character and appearance of the surrounding area which is within the North Wessex Downs Area of Outstanding Natural Beauty (AONB);
 - Whether the proposal would have satisfactory access to transport and services having regard to relevant local policies; and
 - If any harm arises whether this is outweighed by other material considerations.

Background

3. The proposal is for a gypsy and traveller residential caravan site but the intended occupiers are the appellant and his immediate family and his mother and father-in-law (Mr and Mrs Stephens). The appellant is a farrier and Mr Stephens is a roofer and both travel for work around the country to make their living. They have a nomadic habit of life and so fall within the definition of gypsies and travellers at Annex 1 of the Planning Policy for Traveller Sites (PPTS). Furthermore, because of the race of the appellant and as part of the public sector equality duty prescribed at section 149 of the Equality Act 2010, due regard should be paid to the need to advance equality of opportunity between those who share a protected characteristic and those who do not.
4. A previous appeal decision at the site is a material consideration but is not determinative. This relates to the conversion of the existing stables into a residential dwelling and was dismissed in 2014 (APP/W0340/A/13/2208699).

Landscape character and appearance within the AONB

5. The appeal site comprises a small field of some 0.5ha. It contains a centrally positioned but dilapidated stable building. The land appears not to have been grazed for some time and is situated on the northern side of the road between Curridge House and the caravan site at Rhodeside. The main parts of the village are a little way to the north and west. On the southern side of Curridge Road and beyond is attractive, undulating arable land and woodland.
6. However, the appeal site can be clearly distinguished from that land in terms of its location, character and relationship with other development and the village. It is not open countryside that is away from an existing settlement and therefore this is not somewhere where new traveller sites should be very strictly limited in accordance with paragraph 25 of the PPTS. Furthermore, the location of the site outside of the settlement boundary is not, in itself, a barrier to the proposal as Policy CS7 of the Core Strategy of 2012 anticipates that sites will be in such places.
7. The National Planning Policy Framework gives the highest status of protection to AONBs. This is reflected in Core Strategy Policy ADDP5 which establishes that development should conserve and enhance the local distinctiveness, sense of place and setting of the North Wessex Downs AONB. However, Policy CS7 does not rule out traveller sites within the AONB although there is a requirement to have regard for the character and policies affecting it.
8. The appeal site is within the Lowland Mosaic landscape type as defined by the North Wessex Downs AONB Character Assessment. This typology is further sub-divided so that it is also within the character area of the Hermitage Wooded Commons. Indeed, the locality exhibits many of the characteristics identified in the Character Assessment which can be summarised as enclosed and intimate. The overall management objective is to conserve and enhance the quiet, secluded character.
9. Both main parties have produced Landscape and Visual Assessments (LVA). Their findings differ. The Council's evidence concludes that there would be a substantial adverse effect on the landscape character of the appeal site and a major adverse effect on landscape setting. For the appellant the residual effects on landscape character are assessed as reducing from moderate/minor adverse to minor adverse and subsequently to negligible as the proposed frontage hedge establishes. Similarly for visual amenity the eventual impact is likely to be negligible. However, it is agreed by both sides that the existing value of the landscape is high.
10. Variations in the findings of LVAs are inevitable given that they include a series of judgements and the use of different descriptors and terminology. Whilst having regard to them there is no need to prefer one above the other or to undertake a detailed critique. However, in terms of the criticisms made of the appellant's methodology, it would be reasonable to assume that users of the public rights of way and those walking and cycling along Curridge Road would be highly sensitive to change. Even though these are not national routes this is because of the quality of the landscape. Furthermore, that the attributes of the site have a positive part to play in their own right as landscape features as well as contributing to the wider scene. However, the appellant's LVA demonstrates that the affected 'visual envelope' is limited in extent due to the high degree of self-containment of the site.

11. Along the site frontage and the return boundaries and also within the front part of the site are large, mature trees which are to be retained. In addition, further native tree planting is proposed at the rear around the mobile homes together with some 170m of indigenous hedgerow along the road and western boundaries. A wildflower margin would be maintained within the peripheral areas. The existing entrance would be re-used and a semi-circular gravel drive would give access to a yard and the proposed caravans at the back of the site. These would be located behind the retained and renovated stable building.
12. In combination the caravans, hard surfacing, vehicles, fencing and other domestic trappings would have an urbanising effect. They would intrude into and result in the loss of part of the existing field and, in so doing, would detract from the intrinsic qualities of the site within the AONB. This would not be mitigated by the proposed planting and other measures. That said, the harm arising is tempered somewhat as the proposed use is not wholly precluded within AONBs and is bound to have some physical manifestations. The influence of these adverse changes on the wider AONB would also be quite limited due to the enclosed nature of the landscape.
13. The main views of the proposal would be from along Curridge Road as it passes the site. From here, the use would be visible between the tree trunks and, even over time, the new hedge would provide only limited screening. Nevertheless, the largest elements would be the mobile homes set about 40m back from the footway. Even though the rear part of the site rises they would also be obscured to some extent by the converted stable building. The caravans would be seen against a wooded backdrop which would assist in absorbing them into the locality. The use would therefore be apparent but would be a recessive feature because of its layout and the softening effect of planting. It would also be appreciated in the context of the adjoining caravan site and the other scattered buildings on this side of the road.
14. A medium distance view would be possible from the by-way that runs across the fields in a southerly direction. However, the tree belt would form a significant visual barrier that would take the eye. The caravans, vehicles and other paraphernalia would be glimpsed underneath the canopies but would not be intrusive or jarring. Even allowing for leaf loss throughout part of the year the visual impact from this viewpoint would be insignificant.
15. There would nevertheless be harm to both the landscape character of the AONB and the appearance of the surrounding area. The degree of that harm would not be of a high order and the adverse impacts would be localised. However, there would be conflict with the first bullet point of Policy ADDP5 under the heading of Environment. Similarly it would also be contrary to Policy CS19 which reiterates the requirement to conserve and enhance landscape character. Policy CS14 sets out design principles including the need to respect and enhance character and appearance and the proposal would fall foul of those provisions. Finally, it would also be at odds with the criteria at the eighth and ninth bullet points of Policy CS7.

Reasons

Access to transport and services

16. Although the appeal site is very near to the primary school facilities are generally scant in Curridge. The closest bus stop and shop are about 1.5km

away along the B4009 and health services are further afield. The Council compared the proposal to one in the centre of Newbury but that is unrealistic for a traveller site given that rural or semi-rural sites are not precluded. Furthermore, the Framework observes that transport options will vary between urban and rural locations.

17. Nevertheless, although not objecting on this ground, the Highways Development Control officer refers to the site as being in an "unsustainable location". Policy CS7 refer to "easy access" to transport and services as the criteria to be satisfied in this respect. Given the proximity of the A34 and M4 this is met for major roads. It would also be unreasonable to expect all of the facilities listed to be on hand especially as they are preceded by the word "including". Nevertheless, when judged as a whole, it cannot be said that there would be easy access to the majority of day-to-day services and this is likely to necessitate a reliance on use of the car as referred to by the Inspector in 2014.
18. Therefore having regard to relevant local policy criteria the proposal would not have satisfactory access to transport and facilities.

Other material considerations

19. The West Berkshire Gypsy and Traveller Accommodation Assessment (GTAA) of 2015 concludes that the estimated additional pitch provision required to 2029 is 17. Based on addressing unauthorised pitches in the first 5 years and then projecting forward household growth, 4 pitches are required by 2019 and a further 6 by 2024 with the remainder by 2029.
20. The appellant criticised the findings of the GTAA because of its inclusion of vacant pitches at the Four Houses Corner public site and the Paices Hill private site in the supply. Three of the 4 identified pitches are at the latter where there is no mechanism to ensure their allocation or use. However, this is not an express requirement of footnote 4 of the PPTS. Furthermore, in the absence of more recent information, it is reasonable to record them as being available and therefore part of the supply to offset current need.
21. The GTAA also refers to 2 households at Four Houses Corner wishing to move into bricks and mortar thereby 'freeing up' those pitches. The description of the issues at that site is troubling but it would have been remiss of the study not to reflect the stated intentions of 2 of its occupiers which may be for other reasons. The Council accepts the inadequacies of the site and is engaged in a full renovation programme to provide a better environment which is expected to take place over the next 2 years.
22. Because of the factors affecting supply the appellant maintains that the level of overall need has been underestimated by at least 6 pitches. However, the GTAA was part of the evidence base for the examination of the Housing Site Allocations (HAS) DPD which was adopted in May 2017. It was presumably accepted as sufficiently robust for the purposes of allocating sites for gypsies and travellers and there is insufficient information to indicate that its findings should be overturned. It therefore forms the best basis to consider general need in West Berkshire for the purposes of this appeal.
23. The HAS DPD allocates a site for 8 pitches at Paices Hill in Policy TS1. These would replace existing transit pitches and are expected to be delivered within 5

- years. The provision here is the only source of new supply in the short term and longer term requirements would be addressed in the new Local Plan.
24. The PPTS expects local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. The Planning Practice Guidance (ID: 3-031-20140306) confirms that planning permission is not a prerequisite for a site being deliverable and that this can include those that are allocated in the development plan. Nevertheless there should be a "reasonable prospect" that development will be delivered on the site within 5 years.
25. The Council were unable to provide any detail in that respect and nothing is known about the intentions of the owner either anecdotally or through the annual monitoring report. On the other hand, there is no indication that the pitches will not be provided as anticipated. One of the criteria for soundness is that a plan should be effective and deliverable over its period. Some comfort can therefore be taken from the finding that the HAS DPD is sound which can implicitly be applied to the allocation at Policy TS1.
26. In any event, the absence of an up-to-date 5 year supply of deliverable sites is a significant material consideration in some cases according to the PPTS but not on land designated as AONB. If there were to be no general 5 year supply that would nevertheless be a matter to consider in accordance with paragraph 24. Whilst the position on the ground is not clear cut the allocated site will meet the immediate need for pitches with the capacity to absorb more. The specific evidence on this point is thin. But as the plan has recently been scrutinised through the examination process it can be assumed that there is a reasonable prospect of the Paices Hill pitches being provided within 5 years.
27. It is alleged that there has been a failure of policy with respect to gypsy and traveller caravan sites going back over many years. However, in West Berkshire there is a newly adopted development plan that allocates a site to meet short-term needs. Such steps are almost always likely to be required in a same way as there is a continual expectation to provide for conventional housing. Furthermore, there is no strong evidence of extensive unauthorised encampments or developments or conflict with the settled community. As a consequence the implications of any past deficiencies are not so serious that this matter should be given additional positive weight.
28. Turning to current practical alternatives, the appellant has visited the 2 existing sites which might have space. However, he found that there are currently no pitches available at Paices Hill and that Four Houses Corner is dilapidated and occupied by those he would not wish to be associated with. He also referred to some background history with the people there. At the moment he and his family are doubling up whilst another family are away travelling. Neither the Bucklands nor the Stephens have their own authorised pitches. In the event of the appeal being dismissed they would have to continue their itinerant lifestyle staying wherever they can with the likelihood of being moved on from unauthorised stopping places.
29. There are currently no suitable, affordable or acceptable pitches that are available to those wishing to occupy the Bluebell Stables site. In the fullness of time the additional provision at Paices Hill might be an option. The AONB covers 74% of the District. Whilst this is significant it does mean that about a quarter of its land area is not affected by this designation which would avoid

- any objection on those grounds in line with planning objectives. However, the Council offered no specific suggestions about how the current accommodation difficulties might be resolved and there is limited evidence in this respect.
30. The appellant carries out a lot of work in the Newbury area and requires a base for that purpose. His wife wishes to return to Berkshire where she was born and raised. In particular, the couple would like their daughter to receive a full education starting with nursery school. There are some health issues affecting the intended occupiers of the site and so access to regular checks and services is important. As her parents grow older Mrs Buckland wishes to be on hand to provide care and support as is customary for gypsies. These aspirations are clearly very important to those affected but do not strongly support this particular proposal and so personal circumstances are of limited weight.
 31. Some of these factors overlap with the general expectation expressed in the PPTS that traveller sites are sustainable economically, socially and environmentally. Many of the criteria listed in paragraph 13 would be achieved in this case and these benefits effectively neutralise the objection about satisfactory access to services and facilities in the light of local policies.
 32. Because of the presence of the stable building it is accepted that part of the site is previously-developed land as defined by the Framework. There is a small concrete apron associated with the stables and this associated fixed surface infrastructure also falls within this definition. However, it is not possible to define a wider curtilage for a building with this function and it is not suggested that this encompasses the entire field. Therefore only a very small part of the appeal site corresponding to the stables and its immediate surrounds should be categorised as such.
 33. The effective use of previously developed land is a matter to which weight should be given according to paragraph 26 of the PPTS. However, the land is not untidy or derelict and the area of brownfield land is small and so this attracts only modest weight in favour of the proposal. The landscaping proposed and the space available within the site would also adhere to criteria b) to d) and this good site planning is a further factor that favours the proposal but only to a moderate degree.
 34. As part of the proposal the existing stables would be renovated and used both as a day room and as a farrier's workshop. There would be some visual benefits in the upgrading of the building as well as the re-use of an existing resource. Furthermore, even if there are already plenty of farriers registered in the vicinity, securing a mixed residential and business use of the site is supported by the PPTS and would contribute to sustainability according to paragraph 13. These aspects of the scheme are also positive.
 35. The proposal accords with all of the detailed planning considerations for traveller sites contained in Policy TS3 of the HAS DPD. Whilst this does not alter the conflict with other policies that relate to the location of the site it nonetheless further supports the appellant's appeal.
 36. The best interests of the Buckland's daughter would be served by enabling her to have a settled base so that her education can commence and access be gained to any required health facilities. In theory these interests could be met elsewhere but, given the family's specific accommodation need for a caravan site, the problem is that there is currently nowhere else for them to go. This is

a primary consideration and no other consideration should be given more importance or weight than the best interests of this child.

37. Although the appeal site is not currently the appellant's home it potentially could be. Dismissing the appeal would therefore represent an interference with his home and family life such that Article 8 of the Human Rights Act is engaged. There is also a positive obligation imposed by Article 8 to facilitate the gypsy way of life.

Other Matters

38. A number of other concerns have been raised about the proposal in addition to those contained in the main issues. Policy C4 of the HAS DPD and saved Policy ENV19 of the West Berkshire District Local Plan expect existing buildings to be capable of being converted without extensive alterations, substantial rebuilding or extension. The existing stables would not be enlarged. The structural report advises that the general structure of the building can be retained although a new roof is required and remedial repairs are also necessary to prevent the deterioration of the fabric. However, these works fall short of what is referred to in both these policies and there is no conflict with either of them.
39. Because of the location of the site near to the two built-up parts of Curridge there would be the possibility of an integrated co-existence between the site and the settled community as required by Policy CS7. There is no reason to suppose that domestic activity at the site would cause disturbance. At times the workshop would be used to work on specialist shoes but this is not expected to take place on a daily basis. The times when hammering occurs could also be controlled by condition. As such, the residential amenities of neighbouring occupiers could be safeguarded.
40. No highway objections are raised by the Council and the amount of additional traffic arising from 2 traveller pitches would be light. Curridge Lane is relatively busy for a rural road but the access onto it would be satisfactory and the impact of extra vehicles associated with the proposal would be insignificant.
41. The prospect of further caravans being sited on the land over time was mentioned. Whatever the past experience of the Council it cannot be assumed that this would occur and, in any event, the proposal has to be judged as submitted. The owner of the adjoining caravan park is worried about the implications for his business and the investment he is planning as well as the effect on the direct and indirect spend of visitors in the locality. The screening between the two sites is not complete but it is difficult to see how the sight of a caravan would deter tourists from staying at an adjoining caravan site. Neither would the proposal be bound to spoil the tranquillity of the area.

Balancing

42. In order for permission to be granted the Council maintained that exceptional circumstances needed to be demonstrated. However, that test in the Framework only applies to major developments within AONBs which is not the case here. Rather, as set out in paragraph 12, development that conflicts with an up-to-date development plan should be refused unless other material considerations indicate otherwise.
43. Both the landscape character of the AONB and the appearance of the surrounding area would be harmed. Even though the level of harm would not

- be high and the adverse impacts localised, great weight should be given to conserving landscape and scenic beauty in AONBs according to paragraph 115 of the Framework. There would also be conflict with relevant development plan policies that seek to conserve and enhance the qualities of the North Wessex Downs AONB. These findings weigh heavily against the proposed use.
44. Having regard to relevant local policy criteria the proposal would not have satisfactory access to transport and facilities. But the associated harm is counter-balanced by the achievement of many of the criteria set out in the PPTS to ensure that traveller sites are economically and socially sustainable.
 45. The general need for sites identified in the GTAA is not especially great. In the short-term a site has been allocated in a recently adopted development plan to meet the current need. Whether this will progress is uncertain but the Council should, for the time being, be given the benefit of the doubt in seeking to meet some needs through planned provision. Having regard to the core planning principle that the system should be genuinely plan-led, considerable weight should be given to the conflict with some of the criteria in Policy CS7 which is the specific policy that deals with unallocated sites. A way to address unmet need in the longer-term has not been devised and as the proposal would contribute in that respect some weight should be given to this consideration.
 46. As there are no immediate alternatives for the proposed occupiers the prospect is that their life on the road with its attendant difficulties and disadvantages will be perpetuated. Bringing this to an end would be a positive and significant outcome. Allied to this the best interests of their daughter for a settled base are a primary consideration and are of great weight. That said, the Planning Practice Guidance advises that this matter will not always outweigh other considerations and in this case her schooling would not be disrupted as it has not yet started.
 47. In themselves the personal circumstances of the intended occupiers are of limited weight but there would be an interference with the appellant's human rights. The seriousness of this is qualified by the fact that the site is not currently the appellant's home but dismissing the appeal would nevertheless prevent a safe and secure place to live from being established. It would also thwart Mr Buckland's intended plan for continuing to make his living and the attempt to provide for effective mutual support between generations. However, whilst not downplaying these considerations but having regard to the likely vulnerability of those concerned and hardships faced, the overall seriousness of the interference is towards the lower end of the scale.
 48. The weight to be given to the use of a site which is partly previously-developed land, its layout and landscaping and the benefits of converting the stable building are prescribed above. Even collectively, these are not significant.
 49. At the end of the day, whilst there would be compliance with the detailed criteria for traveller sites in Policy TS3, the objections to the proposal because of the harm to the AONB and the policy conflict are strong and compelling. Set against this the other considerations in support of the proposal do not outweigh the totality of harm that would ensue. Consequently it is concluded that permanent permission should not be granted.
 50. The appellant has deliberately chosen not to occupy the site in advance of the consideration of the planning application and now appeal. This should not be

to his disadvantage but clearly the final balance has to be struck on the basis of what has actually happened. In any case, intentional unauthorised development is a material consideration which would have been likely to weigh against the proposal if that had taken place.

51. The PPG contains guidance about the granting of permission for a temporary period only. It makes no reference to reviewing whether the personal circumstances of site occupiers have changed over time. However, a temporary permission may be appropriate where it is expected that the planning circumstances will change in a particular way at the end of that period. The appellant commented that whether this would occur is unclear and there is no indication about the timing of the preparation and submission of the new Local Plan. So even after 5 years it is unlikely that the position facing the Bucklands would be any different to what it is now. Consequently a temporary permission would not accord with national guidance.
52. Coupled with which, although the harm to the AONB would be short-lived, it would be unreasonable to impose conditions requiring that landscaping be undertaken, the wildflower meadow planted and managed and the stable building converted. None of these benefits could therefore be assumed to arise so that the adverse visual implications would potentially be greater in effect albeit of limited duration. There would be a temporary solution to the needs of the intended occupiers for accommodation and the best interests of a child would be served during this time. However, this does not materially alter the previous balance undertaken especially given the lack of a definite and foreseeable date when the planning position might be expected to change. Therefore a temporary permission is not warranted.
53. The appellant's human rights have to be balanced fairly against the legitimate objective of protecting the nationally important landscape and scenic beauty of the AONB. Interference is necessary in a democratic society to regulate land use and, having considered a temporary permission, the public interest cannot be achieved by means that cause less interference with the appellant's rights. Overall, having regard to the situation of the family and the best interests of the child, dismissing the appeal would be a proportionate response. Hence a violation of rights under Article 8 of the Human Rights Act would not occur.
54. In reaching this decision and in accordance with the public sector equality duty, due regard has been paid to minimising the disadvantages suffered by the appellant and to meeting his needs in so far as they are different to those without a relevant protected characteristic.

Final conclusion

55. The other material considerations do not indicate that the appeal should be determined other than in accordance with the development plan as a whole. The proposal would be contrary to it and is unacceptable. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr A Murdoch	Murdoch Planning Limited
Mr R Crandon	Tirlun Design Associates
Mr J Buckland	
Mrs S Buckland	

FOR WEST BERKSHIRE COUNCIL:

Mr M Butler	Principal Planning Officer
Ms L Allen	Kirkham Landscape Planning
Cllr H Cole	

INTERESTED PERSONS:

Mr R Crispin	Chieveley Parish Council
Mr B Deacon	
Mr C Cholmeley	Curridge Residents Association

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Agreed statement of common ground
- 2 Plans for appeal decision APP/W0340/A/13/2208699
- 3 Structural report on Bluebell Stables
- 4 Appendix 3 of Housing Site Allocations DPD
- 5 Policy ENV19 of West Berkshire Local Plan Saved Policies