



Appeal Decision

Hearing held on the 13 March 2018

Site visit made on 13 March 2018

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2018

Appeal Ref: APP/V3120/W/17/3181653

The Old Canal Site, Compton Road, Shrivenham, SN6 8HF.

- 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 Cassidy against the decision of Vale of White Horse District Council.
 - The application Ref. P16/V2968/FUL, dated 24 November 2016, was refused by notice dated 10 February 2017.
 - The development proposed is the change of use of the land to create 3 gypsy and traveller pitches with associated ancillary development.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the principle of the development proposed accords with the development plan and national guidance;
 - The effect on the character and appearance of the area;
 - The accessibility of the site;
 - Whether the development would prejudice the restoration of the Wilts and Berks Canal;
 - The need for gypsy/traveller sites and whether the Council can demonstrate a 5 year supply of new sites; and
 - Personal circumstances and the best interests of children.

Reasons

Background

3. The appeal site comprises an oblong shaped area of land which lies in open countryside to the south of the village of Shrivenham. Access is obtained from Compton Road, a narrow rural lane, close to a humpback bridge. It is apparent that part of the site is on the old route of the Wilts and Berks canal but this was abandoned in the 1920s and in the vicinity of the site the canal was filled in.

Planning permission was also given in 1974 for the tipping of builders' waste on the appeal site, consequently the land is raised by about one metre above surrounding fields. The hedges which partially enclose the appeal site tend to be growing on the outside slopes of the land. It is proposed to change the use of the land to create 3 gypsy/traveller pitches and the submitted plan shows that each pitch would accommodate a static and a touring caravan and a small day room with kitchen/eating area, bathroom and store.

4. The site has a lengthy planning history and I note that an appeal concerning a proposed use for two gypsy caravans was dismissed in 1998 under ref. APP/V3120/A/98/290004/P2.

Policy context

5. The development plan for the area includes the Vale of White Horse Local Plan 2031-Part 1 Strategic Sites and Policies, adopted in 2016 (LP) and saved policies in the Vale of White Horse Local Plan 2011 adopted in 2006 (LP2011). Although the latter plan predates the National Planning Policy Framework (the Framework) the saved policies can be given weight depending on their degree of accord with the Framework. The Council is also preparing the Vale of White Horse Local Plan 2031 Part 2 - Detailed Policies and Additional Sites. The Council advises that this plan has been submitted for examination which is likely to take place later in 2018 and it is intended for the plan to be adopted towards the end of 2018. At this stage in the plan-making process only limited weight can be given to the emerging plan.

The principle of the development

6. The second part of Core Policy 27 provides the main policy base for the consideration of new gypsy and traveller sites. The policy indicates that where a proposal meets the criteria set out, planning permission will be granted for new sites to help meet the overall need for gypsies, travellers and travelling showpeople residential accommodation. The Council's objections relate to criteria (vi) and (vii) of the policy which I will deal with in subsequent issues, but it is clear to me that criteria (iv), most of (v), and most of (vi) other than in respect of 'character', and criterion (viii) of the policy are not conflicted with. Therefore, the objection is to the site specific harm that the proposal is alleged to cause rather than any objection in principle to the proposal.
7. In terms of national policy, the Planning Policy for Traveller Sites (PPTS) indicates that gypsy and traveller sites can be acceptable in rural areas but advises in paragraph 25 that site development in the open countryside that is away from existing settlements should be very strictly limited. The appeal site lies about 1.8km away from the edge of the built-up area of Shrivenham and the intervening land is mainly open fields. Based on the distance and physical nature of the land I find that the appeal site lies well *away from* any settlement, and the proposal in such a location does not accord with the main thrust of national guidance.

The effect on the character and appearance of the area

8. In considering this issue I have had regard to the criteria set out in Core Policies 27 (v) and (vi), 37 (i) and (ii), and 44. Criterion (v) of policy 27 includes 'areas of high landscape...value'. Although the area around the appeal site is not a nationally designated landscape, such as the Area of Outstanding Natural Beauty

(AONB), the Lowland Vale is a local landscape description, as indicated in the Council's recent Landscape Character Assessment (September 2017) and is recognised in saved LP2011 Policy NE9. I am therefore satisfied that it should be regarded as an area of a high landscape value and is a 'valued landscape' in the context of the first bullet point of paragraph 109 of the Framework. I have also had regard to the appellant's Landscape and Visual Impact Assessment (LVIA) and considered the appeal proposals from the local viewpoints put forward in the representations.

9. The site lies in the context of relatively flat open fields subdivided by hedgerows. There is an extensive belt of woodland on the south-western side of Compton Road which is formed by mainly deciduous trees and hedgerow plants and at the time of my visit the vegetation was mainly bare. Even so the woodland partly screens the site in views from the south and east other than direct views through the site access. The proposed development would therefore only be seen to a limited extent from Compton Road.
10. However, there would be views of the site from Longcot Road to the north. Here the roadside hedge has been managed to a low height and there are views towards the appeal site. Further, because of the elevated nature of the appeal site itself, the planting that exists on the boundary bank would only have a limited effect on screening the proposed caravans and building. I note the conclusions of the LVIA that the visual impact could be mitigated by treating the external finish of the static caravans and having grey roof tiles and a dark finish to the day rooms as well as introducing new planting. Some of this mitigation would require the proposed layout of the site to be revised to site the structures/caravans away from the site boundary. Nevertheless, I am concerned about the long term screening potential of further planting, because the site appears to be formed from deposited builders' material rather than soil, together with the sloping nature of the edge of the site where the present hedges are intermittent. The touring caravans themselves are likely to be white.
11. Even taking account of the potential for mitigation put forward, I conclude that the proposed use involving three day rooms, static and touring caravans would have a moderately harmful visual impact on the otherwise undeveloped rural character of the surrounding area of Lowland Vale landscape, although the area of this impact would be limited in extent. Notwithstanding this local impact, I am satisfied that there would not be a discernible effect on the North Wessex Downs AONB to the south of the site or on long distance views from it.
12. Given this harm I find that the proposal would conflict with the provisions of parts (v) and (vi) of Core Policy 27, parts (i) and (ii) of Core Policy 37, and Core Policy 44 of the Local Plan - Part 1, and conflicts with Policy NE9 of the LP2011.

The accessibility of the site

13. Criterion (vii) of Core Policy 27 indicates that to be acceptable a proposed gypsy or traveller site should be located within a reasonable walking distance of key local services. The parties say that the site lies about 2.4km from the centre of Shrivenham with shops, medical facilities and a local school. The appellant's agent says this centre is about a 26 minute walk away from the site. The Council refers to the guidance issued by the CIHT¹ which recommends a maximum

¹ Chartered Institute of Highways and Transportation

distance of travelling on foot of 2000m. This is less than the distances of 2.4km accepted by an Inspector in one of the cases put to me by the appellant.

14. In assessing this location I have also taken into account that both Compton Road and Longcot Road are unlit and have no separate footways/pavements until near the village. Further Compton Road is narrow but straight while Longcot Road is twisty and some of the bends have limited visibility. I also note the Inspector who considered the previous appeal considered the site to be 'far from any local settlement'. On the basis of my observations at my site visit and the route I travelled from the site to the village, I consider that the site is not within a reasonable walking distance of a key settlement. In particular, as a site for three families, the distance and nature of the local roads would not be conducive for children to be able to walk to school in a safe and convenient manner.
15. I conclude that the location and accessibility of the site does not accord with the criteria in Core Policy 27 and would not support a sustainable pattern of growth which is a core principle of the Framework.

Whether the development would prejudice the restoration of the Wilts and Berks Canal

16. It is clear from the historical maps submitted and the discussion at the Hearing that the appeal site lies on the route of the old Wilts and Berks Canal which ran in an east-west direction in the vicinity of the site, however, the exact alignment of the canal was not apparent at the site visit because of the tipping that has occurred on the site and because of the vegetation that has grown up on the land to the east of Compton Road. Although the canal was legally abandoned in 1914 and the land returned to neighbouring landowners, it is the aim of the local canal groups to work towards the restoration of the canal, its historic features and towpath. When restored the canal would be some 60 miles in length although only about 10% of the canal is operational now. The canal bodies have in mind a long term aim of securing two 'Southern Rings' based on the River Thames, the Kennet and Avon Canal and the Wilts and Berks Canal. The canal at Shrivenham lies at the heart of this 'figure of 8'.
17. Saved Policy L14 of the LP2011 indicates, amongst other aspects, that development that would impair the restoration of the canal will be resisted. Further, development that would prevent the restoration of the canal on its historic alignment will only be permitted if arrangements for the reinstatement of the canal on a viable alternative route can be secured. Similar provisions have been carried forward into Development Policy 32 of the Local Plan - Part 2 with a continued emphasis on safeguarding a continuous route.
18. While the exact alignment and width of the canal were difficult to observe or substantiate on site, the canal groups/trusts advise that the normal operational width of the canal and towpath is in the region of 15-20m. The appeal site ranges from about 20-26m in width therefore the use proposed and the siting of the day rooms and caravans would be very likely to conflict with the reinstatement of the canal. The policy makes provision for a local alternative alignment to be agreed but it is clear that the appellant only owns the appeal site itself and not adjoining fields and so he is not in a position to offer any alternative route.
19. On the face of it the development proposed, if allowed on a permanent basis, would prejudice the long term reinstatement of the canal, contrary to the policy

mentioned above, but in practical terms, on the evidence put to me, it seems that the continuous restoration of the whole length of canal is still some way off and funds have not yet been secured for the whole project. Although permanent physical development would be inappropriate, other issues aside, there may be scope to utilise the land on a temporary basis with temporary structures if this did not involve the appellant in considerable work and expenditure that would be abortive in the long term.

The need for and supply of gypsy/traveller sites

20. The Council's recent Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) produced in June 2017 indicates that there is a need for two additional pitches that meet the planning definition set out in the annexe to the PPTS in the period 2027 to 2032. This takes account of planning permissions granted since the previous GTAA was undertaken in 2013 and the allocation of 13 pitches put forward in the Part 1 Local Plan. On this basis the Council can demonstrate a current five year supply in accordance with the requirements of the PPTS.
21. This position is not challenged by the appellant but his agent noted that the appellant's family's desire to develop three pitches on the site were not taken account of in the survey for the GTAA as they did not live in the area at that time. Also the high level of 'unknown demand' at 25 households (that is where it is not known if the occupiers of an existing pitch meet the planning definition) as shown in the GTAA, was highlighted as an indication of demand that is not being met. However, it is evident that the Council see the criteria set out Core Policy 27 as generally accepting sites for gypsies and travellers in appropriate locations and the Council do not regard the number of sites that can be permitted as a ceiling that cannot be exceeded.
22. Overall on this issue, on the evidence presented I am satisfied that the Council can demonstrate appropriate provision for the accommodation of gypsies and travellers at the moment and there is not a clear unmet need for such sites locally.

Personal circumstances and the best interests of children

23. Mr and Mrs Cassidy explained that the family are living on the road side and produced notices of them being required to vacate land in Swindon, Cheshire, Northampton and London. Mr Cassidy said he bought this site because he could afford it and he and his family would like to have a settled base here as they have other family in the area. He explained his current medical condition and being constantly on the move means that it is difficult to receive medical advice, treatment and medication. A permanent site and address would enable the family to enrol with a doctor's practice and have regular treatment.
24. Mr and Mrs Cassidy have other family members travelling with them and 4 are of school age. The two other related households who would occupy the two other pitches also have 5 children/grandchildren who would live with them for periods. Until now the children have not been able to attend school as their life on the road has not enabled them to settle down in one place. Mrs Cassidy said that this was affecting the children's education and development which she wanted to sort out now.

25. It is clear to me that Mr Cassidy's health would benefit greatly from having a settled base which would provide continuity in treatment. Also the best interests of the children would also be to have a settled base from where they could have regular attendance at the same school in respect of their right to education. These are factors to which I give significant weight.

Planning Balance

26. At the start of considering the key elements in the planning balance I have borne in mind the requirements of the Public Sector Equality Duty and have considered the best interests of the appellant's children and those in the wider family as a primary consideration.
27. Bringing together my conclusions on the main issues, I have found that the development proposed would result in the creation of a use where the day rooms and the presence of the 6 caravans would have a moderately harmful visual impact on the otherwise undeveloped rural Lowland Vale landscape. Further, the location of the site is in the open countryside well away from any settlement and it has poor accessibility to services and facilities and lies beyond a reasonable and safe walking distance to these facilities. These factors mean that the proposal does not accord with the locational and environmental policies in the development plan and national guidance that I have mentioned.
28. The proposal would also involve development on the route of the old Wilts and Berks canal and the three gypsy/traveller pitches proposed would prejudice the future restoration of the canal as it has not been demonstrated that there is a local alternative route reasonably available to make a continuous waterway.
29. All of these factors together constitute significant adverse effects, albeit that harm to the restoration of the canal would only arise if allowed on a permanent basis, but they have to be balanced with the benefits of the development and the wider context of the proposal.
30. Regarding the need for gypsy and traveller accommodation, on the evidence before me I am satisfied that the Council has demonstrated that the identified needs are currently being met and there is not an established unmet need.
31. In terms of the personal circumstances put forward, it is also clear to me that a settled base would be of great benefit to Mr Cassidy in receiving treatment for his medical condition. In principle such a base would also be in the best interests of the children in the family as it would enable permanent access to the same school. In respect of these factors, the proposal would be much better than a life on the road side which appears to be the likely outcome if the appeal is not successful as reasonably close and suitable alternative pitches do not appear to be available to the appellant and wider family.
32. However, I find that these benefits do not outweigh the considerable adverse effects the proposed development would have on this site and especially the problems inherent with its poor accessibility. Further, I conclude that these local adverse effects weigh significantly against allowing the proposal on a temporary basis pending greater certainty over the implementation of the restoration of the canal.
33. Dismissal of the appeal would mean that the proposed occupants would have to seek alternative accommodation. Furthermore, they would not be able to form the stable family environment that they aspire to, which I recognise would represent an

interference with home and family life. However the harm which would be caused by the development cannot be ignored. I consider that the protection of the public interest cannot be achieved by means which are less interfering of the prospective occupiers' rights. They are proportionate and necessary and hence would not result in a violation of rights under Article 8 of the First Protocol of the European Convention on Human Rights.

34. I conclude that the conflict of the proposal with the provisions of the development plan, and national guidance when this is read as a whole, is not outweighed by other considerations and this indicates that planning permission should not be granted on either a permanent or temporary basis.

Conclusion

35. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr T Phillips,	Thurdleigh Planning Consultancy.
Mr J Cassidy	Appellant
Mrs M Cassidy	Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Butler	Major Applications Officer, Vale of White Horse District Council
Mrs A Williams	Landscape Officer, Vale of White Horse District Council.

INTERESTED PERSONS:

Mr K Oliver	Wiltshire, Swindon and Oxfordshire Canal Partnership.
Mrs P Smith	Wilts & Berks Canal Trust
Mr R Dawson	Wilts & Berks Canal Trust
Mr R Salmon	Director, Compton Beauchamp Estates
Mr M East	Neighbouring farmer
Mr T Crabtree	Wilts & Berks Canal Trust

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Copy of leaflet from Wilts & Berks Canal Trust showing Two Southern Rings' of canal systems following restoration.
- 2 Extracts from policies within the Local Plan - Part 2.