



Appeal Decision

Hearing Held on 3 July 2018

Site visit made on 3 July 2018

by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2018

Appeal Ref: APP/R3650/W/17/3180635

Land to the west of Lydia Park, Stovolds Hill, Cranleigh, GU6 8LE

- 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 Messrs King, Doherty and Hilden against the decision of Waverley Borough Council.
 - The application Ref WA/2017/0176, dated 2 December 2016, was refused by notice dated 26 April 2017.
 - The development proposed is change of use of land to a mixed use site, for the stabling and keeping of horses and residential use for three Romani Gypsy families. The site to contain three static caravans, three touring caravans, with associated parking, hardstanding and water treatment plants.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the land to a mixed use site, for the stabling and keeping of horses and residential use for three Romani Gypsy families. The site to contain three static caravans, three touring caravans, with associated parking, hardstanding and water treatment plants, on land to the west of Lydia Park, Stovolds Hill, Cranleigh, GU6 8LE, in accordance with the terms of the application Ref WA/2017/0176, dated 2 December 2016, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The proposed development would be occupied by the three appellants and their families who are related to one another and form an extended family. It is common ground between the main parties that the appellants are gypsies and travellers within the meaning of Annex 1 of the Planning Policy for Traveller Sites (PPTS) in that they are persons of nomadic habit, travelling for the purposes of employment. I understand that the appellants buy and sell horses and carry out gardening and handyman work as necessary, travelling around the country to trade and pick up work. On that basis I am satisfied that for the purposes of this appeal the proposed occupiers of the site fall within the definition of Annex 1. I have determined the appeal on that basis.
3. At the time the application was determined the statutory development plan included the Waverley Borough Local Plan adopted in 2002. However, this plan has been superseded by the Waverley Borough Local Plan Part 1; Strategic Policies and Sites (the Local Plan) which was adopted in February 2018. Both main parties have had the opportunity to comment on the Local Plan and

accordingly I have taken the plan, which contains the most up to date policies, into account in my determination of the appeal.

4. The Council is also in the process of preparing the Local Plan Part 2: Site Allocations and Development Management Policies. The plan is at an early stage of preparation, and the Council is currently consulting interested parties on preferred options for gypsy and traveller sites, amongst other things. It is anticipated that the final plan will be adopted before the end of 2019. At this stage the plan therefore carries limited weight in the decision making process.
5. The Council set out in its statement that the proposal meets the criterion of Policy ST1: Sustainable Transport, given its rural location. Accordingly it was confirmed at the hearing that part of the second reason for refusal, which related to the accessibility of local services, was no longer applicable. I have no reason to take a different view. Accordingly this did not form part of the discussion at the hearing nor does it form part of my consideration of the appeal.

Main Issues

6. The main issues in this case are:
 1. The effect of the proposal on the character and appearance of the area.
 2. The need for and provision of gypsy and traveller sites in the district.
 3. Personal need for accommodation and the personal circumstances of the appellants.

Reasons

The effect of the proposal on the character and appearance of the area

7. The site lies within the countryside for planning purposes and as such the following Local Plan policies are relevant to the consideration of the appeal. Policy RE1 of the Local Plan relates to areas of countryside beyond the Green Belt. It requires that the intrinsic beauty and character of the countryside will be recognised and safeguarded in accordance with the National Planning Policy Framework (the Framework). Policy RE3 relates to landscape character and requires that new development must respect and where appropriate enhance the distinctive character of the landscape in which it is located. The Area of Great Landscape Value (AGLV), within which the site lies, the policy states, will be protected for its own sake and as a buffer to the Area of Outstanding Natural Beauty, the boundary of which lies to the north of the appeal site.
8. Policy AHN4 of the Local Plan sets out a sequential approach for identifying sites for Travellers and Travelling Showpeople within Part 2 of the Local Plan and provides criteria against which proposals for permanent sites for gypsies and travellers will be judged. The Council accepts that the proposal complies with all of the criteria of this policy with the exception of one, that is, that the site does not have an unacceptable impact on the physical and visual character of the area.
9. The appeal site comprises part of a much larger area of land off Stovolds Hill, a minor road cul-de-sac, which has been subdivided by fencing and planting into smaller parcels of land. Accessed by a concrete track off the road, the land is currently used for grazing and incorporates a stable block. It is bounded by

woodland to the south, by planting to the side boundaries and by a post and wire fence to the access track, which is itself bounded on the north side by mature vegetation.

10. The proposed stable block is a modest sized building of a scale and appearance which is not uncommon in a countryside location. However, the siting of up to six caravans on the site, with associated vehicles, hardstanding and the domestic activity associated with the use would have an urbanising effect on the character and appearance of the site itself. Nevertheless, the site is already very well screened and the caravans, which would be low in height and of limited scale are only likely to be glimpsed above the vegetation. Moreover, there are no public footpaths in the area and the access track, which is in any event privately owned, stops at the appeal site and as such there is no passing traffic. Any public vantage points on Stovolds Hill are some distance away and in any case direct views of the development would be obscured by the three pitch gypsy and traveller site and screening on one of the neighbouring parcels of land granted on appeal in December 2017¹.
11. Whilst the site is clearly within the countryside, long range views into and out of it are already limited by vegetation. The neighbouring Lydia Park and New Acre gypsy and traveller caravan parks, located to the north-east of the site are apparent from Stovolds Hill and form part of the character of the area. In addition to the appeal site mentioned above, two further parcels of land along the track have been identified as potential gypsy and traveller sites in the emerging Local Plan Part 2. In that context, even if the potential sites did not come forward, the development of the appeal site as a traveller site would not have a significant adverse effect on the character and appearance of the area as required by Policy TD1 of the Local Plan, which seeks to ensure that the character and amenity of the Borough are protected. For the same reason the character and role of the AGLV as a buffer to the AONB would not be compromised.
12. I acknowledge the concerns of the Council and local residents that the development would extend further into the countryside than the existing gypsy and traveller development. Nevertheless, the proposal would relate well to its context and any harm to the area would be limited. Screening in itself cannot make a development acceptable but in this case the site is already significantly enclosed by planting. The proposed additional planting, particularly if it is of a native species as discussed at the hearing, would not itself be incongruous.
13. Paragraph 25 of the PPTS seeks to very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Sites in rural areas should respect the scale of, and not dominate the nearest settled community and avoid placing an undue pressure on local infrastructure. Although it did not form part of the Council's reason for refusal I have taken into consideration the Parish Council's concerns about the potentially increasing scale and cumulative impact of gypsy and traveller development in the locality.
14. It seems to me that an additional three pitches represents a limited increase in the open countryside. The nearest group of residential properties lies some distance to the south-east of the site along Stovolds Hill which ends at the former Dunsfold Aerodrome now partly occupied by commercial premises.

¹ Appeal Ref: APP/R3650/W/17/3169996

Although the existing gypsy and traveller sites are apparent from the road, screening is such that they do not dominate the appearance of the area. Moreover, I agree with the Inspector in the previous appeal that traffic generated by the existing sites is likely to travel northwards, towards the B2130 away from existing residential properties. Traffic generated by the appeal site is also likely to follow this pattern and as such the proposal is unlikely to have an unduly harmful impact on the living conditions of the local residents as a result of noise and disturbance. In visual terms, the proposed development would not be seen from the existing settled community. Therefore, even considered cumulatively, I am unconvinced that the proposal would dominate the settled community or conflict with the PPTS in this regard.

15. I conclude on this issue that the proposal would have a localised visual impact on this area of countryside and as such would conflict with Policies RE1, RE3 and AHN4 of the Local Plan. Nevertheless, given the limited scale of the development and the context of the immediate environment, that harm is limited.

The need for and provision of gypsy and traveller sites in the district

16. The PPTS requires that the level of local provision and need should be considered when dealing with proposals for gypsy sites. The Council is required to demonstrate a 5 year supply of permanent traveller pitches. The Council's Gypsy and Traveller Accommodation Assessment published in March 2018, shows a need for 19 pitches in the years 2017-22 and a total of 27 pitches for the plan period 2027-32. Although the appellants consider this an underestimation of the true need, there is no contrary evidence before me that convinces me that these figures are incorrect. Nevertheless, the appeal site would make a small contribution to the provision of gypsy sites in the area.
17. It is common ground between the parties that the Council cannot demonstrate a five-year supply of housing sites and that no alternative sites are currently available to the appellants. However, as set out above, progress is being made on the Local Plan Part 2 which includes proposed site allocations for a total of 43 pitches for the plan period 2013-32 which would address the identified need. Nevertheless the Local Plan Part 2 is at an early stage of preparation and it will be some time before any new allocated sites are available. Consequently the lack of a five-year supply and the lack of available alternative sites carries significant weight in favour of the proposal.
18. It is clear that there has been a long-standing failure of policy in the plan-led system to provide for gypsy and traveller sites in Waverley and that the system is still currently failing to provide the necessary sites. However, I acknowledge that the Council is making progress to address the matter and this reduces the weight I give to the issue in favour of the proposal.

Personal need for accommodation and personal circumstances

19. The site would be occupied by the three appellants who form part of the same extended family which includes 7 children of school or pre-school age and another relative with complex health needs. From what I heard at the hearing the appellants have never had a settled base but have travelled from site to site living temporarily and often doubling up with other families. As such the family is homeless.

20. It is clear that the appellants have searched for accommodation for some time but without success. The family has local connections with this area and I acknowledge from all I have heard and read, that it is important to the family that members live together to provide support for each other as necessary. A settled base would enable the family to be registered with local healthcare practitioners and for the children of school age to attend local schools. This is clearly in the best interest of the children.
21. It seems to me therefore that there is a clear need for a settled base for the three households concerned. I give significant weight to this factor in support of the proposal.

Other Matters

22. The neighbouring land to the south-west of the site is in agricultural use. Concern was expressed by the neighbouring land owner at the hearing about the impact of the proposal, in terms of the proposed position of the caravans close to the site boundary, the use of lighting, the type of landscaping proposed, potential noise from dogs and the keeping of horses on the site, on the well-being of livestock kept in the adjacent field and on bees kept nearby. The appellants helpfully indicated a willingness to be flexible about the position of the caravans on the site and, with the exception of any noise from dogs which would be a matter for the Council, it seems to me that these issues could be controlled by planning condition.

The Planning Balance

23. As set out above I have concluded that the proposal would cause limited harm to the character and appearance of the area and would conflict with policies of the Local Plan.
24. Against that harm must be set the need for gypsy and traveller sites in the district, with no provision to meet an identified need for at least 27 pitches to 2032, such that there is no five year supply of sites. There is also a current lack of alternative sites in the district such that there are no pitches presently available and no alternative accommodation available to meet the family's needs. The Council has made progress with the production of a Site Allocations Document but this is unlikely to be adopted until late 2019. In addition there is a failure of policy to provide for the necessary sites. I have found that there is a personal need for accommodation for the three households which also carries significant weight.
25. The proposal is broadly consistent with the sustainability criteria in paragraph 13 of the PPTS. There would be limited harm caused by the appeal proposal due to an adverse effect on the character and appearance of the area. However these adverse effects are clearly outweighed by the benefits of the proposal relating to general need, the provision of pitches, and the lack of alternative accommodation.
26. As such the balance is clearly in favour of the grant of permanent permission. The additional personal circumstances of the appellants, though material, are not essential to tip the balance in favour of the appeal. I do not therefore need to give consideration to a temporary permission.
27. Representations have been made to the effect that there would be an interference with the human rights of the appellants under Article 8 of the

Human Rights Act 2010 if the appeal were dismissed. As I have decided to allow the appeal, this situation would not arise.

28. Since the appellants, the intended site occupiers, are Romani Gypsies they have a protected characteristic for the purposes of the Public Sector Equality Duty and I have taken this into account in my determination of the appeal.

Conditions

29. At the hearing, the parties discussed conditions that may be appropriate in the event of the appeal being allowed. I have considered the suggested conditions in the light of the Planning Practice Guidance.
30. In the interests of proper planning and in order to provide certainty I have specified the standard time limit and the approved plans, which for the reasons set out above do not include the originally submitted site layout plan. As the site lies in the countryside where development is restricted, it is necessary to limit the occupancy of the site to gypsies and travellers.
31. Approval of further details and implementation of a drainage scheme are necessary in order to avoid pollution and flooding. In the interests of highway safety no pitch should be occupied until parking and turning areas as shown on the approved plan have been laid out and that those areas shall be retained.
32. In order to limit any harm to the character and appearance of the area it is necessary to specify the number and type of caravans on the site; prevent any commercial activities other than the keeping of horses; limit the size of any commercial vehicles parked on the site and to require details of any external lighting. For the same reason and to help mitigate against any impact on the appearance of the area a landscaping scheme, specifying native species and requiring details of boundary fencing, is also reasonable and necessary.
33. In order to provide certainty, notwithstanding the block plan submitted at the time of the appeal it is reasonable and necessary to require details of the final layout of the development to be submitted to and approved in writing by the Local Planning Authority.

Conclusion

34. For the reasons given above I conclude that the appeal should be allowed subject to the conditions outlined above.

S Ashworth

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 08/2017 (STABLE) and LP-02 (LOCATION PLAN).
3. Notwithstanding the details indicated on the originally submitted plans, details of the layout of the pitches shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of any of the caravans.
4. Development shall not commence until details of the disposal of foul and surface water from the site have been submitted to and approved in writing by the local planning authority. The caravans shall not be occupied until the approved drainage scheme has been implemented in full and the work shall be retained thereafter.
5. No pitch shall be occupied until the access, parking layout and turning area shown on the approved site layout plan has been laid out and thereafter the turning space and parking spaces shall be retained and kept available for such uses afterwards.
6. No development shall commence on site until a scheme of hard landscaping including details of fencing, and soft landscaping, incorporating native species, has been submitted to and approved in writing by the local planning authority. The approved landscaping shall be carried out in accordance with the scheme in the first planting season following the first occupation of any of the pitches. The landscaping shall be maintained for a period of 5 years after planting.
7. If within a period of 5 years from the time of planting any planting pursuant to condition 6 is removed, uprooted, destroyed, or dies or becomes damaged or defective, another of the same species as that originally planted shall be planted.
8. No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 3 shall be a static caravan), shall be stationed on the site at any time.
9. 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 August 2015 (or its equivalent in replacement national policy).
10. A scheme of external lighting for the three pitches shall be submitted to the local planning authority and agreed in writing prior to the occupation of any of the caravans. No other external lighting shall be installed on the site.
11. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site at any time.
12. No commercial activities shall take place on the land, including the storage of materials.

APPEARANCES

FOR THE APPELLANT:

Mr Joseph Jones Agent
Mr Simon Doherty Appellant
Mr Charlie King Appellant
Mr Noah Hilden Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Joe Cunnane MRTPI Cunnane Town Planning LLP
Mr Alex Richards Cunnane Town Planning LLP

INTERESTED PERSONS:

Ms Francesca Stern Bramley Parish Council
Mr Richard Seaborne Bramley Parish Council
Mr Tony Coleman Bramley Parish Council
Ashley Herman Neighbouring resident

DOCUMENTS PROVIDED AT THE HEARING

1. Signed final draft statement of common ground
2. Copy of letter sent by the Council to neighbouring occupiers regarding the consultation on the preferred gypsy and traveller sites for allocation
3. Plan indicating the location of the proposed allocations DS51 and DS52
4. Extract from the Proposals Map showing the Area of Great Landscape Value in the locality
5. Justification for Policy RE3 as set out in the Local Plan