



Appeal Decision

Hearing Held on 15 January 2020

Site visit made on 15 January 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/Z3825/W/19/3225910

Plot 3, Bramblefield, Thakeham, West Sussex

- 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 William Mitchell against the decision of Horsham District Council.
 - The application Ref DC/18/1543, dated 2 July 2018, was refused by the Council by notice dated 21 December 2018.
 - The development proposed is change of use of land to a private gypsy and traveller caravan site.
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Decision

1. I allow the appeal and grant planning permission for change of use of land to a private gypsy and traveller caravan site at Plot 3, Bramblefield, Thakeham, West Sussex in accordance with the terms of the application, Ref DC/18/1543, dated 2 July 2018, and the plans submitted with it or as amended, namely TDA.2398.01B, 02, 03B, and 04, and subject to conditions 1) to 7) on the attached schedule.

Main Issues

2. On the basis of both the Council's Reason for Refusal and representation from the Parish Council and local residents, the main issues are;
 - The effect of the proposal on the aims of local and national policies which seek to direct development to sustainable and accessible locations.
 - The effect of the proposal on the character and appearance of the area and the use of the access track.
 - The weight to be attached to other considerations.

Reasons

Accessibility

3. This is the single matter referred to in the Reason for Refusal and only policies in the Horsham District Planning Framework were cited. Policy 1 is a strategic policy on sustainable development and reflects the presumption in the National Planning Policy Framework. Policy 2 sets out the spatial strategy to focus development in and around key settlement of Horsham, and to provide for the varied housing needs of the community in terms of tenure, affordability, care and other support needs and the specific temporary and permanent needs of

gypsy and travellers. The expansion of settlements will be supported under Policy 4 subject to 5 criteria and sustainable transport requirements are contained in Policy 40.

4. With regard to gypsy and traveller sites, Policy 21 states that provision will be made for 39 net additional permanent pitches within the period 2011 – 2017 with necessary additional pitches over the remainder of the Plan period. A current backlog and unmet need, as of the date of the Plan, is referred to. Policy 22 states that existing sites will be safeguarded, and new sites to meet need will be identified in a Site Allocations Development Plan Document, while further sites may be provided with a criteria-based windfall policy. Policy 23 sets out 5 criteria that are to be taken into account when assessing any planning applications on non-allocated sites. The Council confirmed at the Hearing that only criterion d) was considered to be breached. This states that *'the site is located in or near to existing settlements, or is part of an allocated strategic location, within reasonable distance of a range of local services and community facilities, in particular schools and essential health services'*.
5. National policy is contained in Planning Policy for Traveller Sites, and Policy C says that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. Policy H sets out the considerations when determining planning applications. The 2019 revision to the National Framework includes guidance on housing provision, sustainable development and the 3 overarching objectives of the planning system in achieving such development. Paragraph 11 sets out the presumption in favour of sustainable development and the considerations where policies are out-of-date.
6. The site is only a short distance from the settlement of Thakeham (The Street), and whilst in the countryside, neither the Local Framework nor Planning Policy for Traveller Sites preclude such a location, the latter stating that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the Development Plan. The site is not 'away' from the settlement and the access track passes through the settlement to reach the highway.
7. That finding of the site being in reasonable proximity of the settlement is reinforced by the conclusions of an inspector considering an appeal into the refusal of a prior approval application under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the nearby Bramble Barn (Ref APP/Z3825/W/16/317881 date 17 October 2016). The Inspector found that the building was not sufficiently divorced from services and utilities to be considered isolated. The accompanying Costs Decision found the Council's refusal on that ground to be unreasonable, stating that the site is located only a short distance from the settlement of Thakeham.
8. The settlement does however have only limited facilities, being identified as a 'smaller village' under Policy 3 of the District Planning Framework, where residents would be reliant of larger settlements for most of their requirements. There is still a public house on The Street and the parish church is located at the end of the access track from the appeal site. There is a bus service on the main road, but this is limited to a single return journey Monday to Fridays with a very limited additional service on 2 days a week.

9. The significant development at the Abingworth Nurseries site to the south of the Green Gap identified in the Neighbourhood Plan does not appear to have made-good the loss of the first school from The Street, but does have a pre-school nursery, while the Village Hall has relocated there. The shell of a shop has been provided under an agreement with the developer, but no operator has been found so that there is no shop available to the settlement including that new development.
10. The conclusion from the above is that residents of Thakeham (The Street) and the Abingworth Nurseries site would be reliant on larger settlements for much of their requirements, and whilst the Officer's Report from late 2018 referred to the shop as potentially meeting some of the needs of the occupiers of the appeal site, that has not yet come into being.
11. The Council has supplied a map and distances to the nearest facilities, although the development at the Abingworth Nurseries site is erroneously shown to contain a new school, whereas with only the pre-school nursery in place there, the nearest school appears to be 3.6km away at Storrington. That village was visited unaccompanied and was seen to contain a range of shops and other facilities including health services. Shops were also seen at Ashington and the Council state that there is a school there also.
12. The appellant's children attend West Chiltington School, which is stated to be 4.7km away although the blue star on the Council's map does not show the correct location on East Street seen as part of the unaccompanied tour of the area, but it is accepted that each of the schools is beyond a reasonable walk or cycle ride having regard to the nature of the roads between.
13. There is a range of services available to the site, in larger settlements at Storrington, West Chiltington and Ashington, and whilst not readily accessible other than by private vehicle, the distances should be regarded as being reasonable, as sought in Policy 23. Many trips would perform more than one function, perhaps shopping after dropping children at school, and the nomadic way of life implies that family members would be away at times seeking work.
14. Taking into account criterion d) of Policy 23, it is concluded that the site is in a reasonably accessible location. With regard to Planning Policy for Traveller Sites, the site would satisfy the aims of Policy H, paragraph 25 on not being away from existing settlements. It is concluded that permission should not be withheld by reason of the site's access to services.

Character and Appearance, and Use of Access Track

15. The first main issue has concluded favourably against the District Council's single objection and the policies cited in the Reason for Refusal. However, the Parish Council and local residents had raised further objections and cited Neighbourhood Plan policies in addition.
16. The Thakeham Neighbourhood Plan was 'made' in January 2017 and is therefore part of the Development Plan for the location of the appeal site. Policy 1 refers to built-up area boundaries defined in the Plan into which new development is to be steered, with countryside policies applying outside those boundaries. The Policy continues with the statement that proposals must not undermine the visual and physical integrity of a Green Gap identified on the Policies Map. Design is the subject of Policy 5, and Policy 8 seeks to resist the

subdivision of agricultural land, with the text referring to the enclosure and subsequent proliferation of small buildings harming the character of open countryside and where access is poor, putting pressure on verges, footpaths, tracks and rural roads. Policy 9 is entitled 'Development in the Countryside' and states requirements for equestrian development, the conversion of agricultural buildings, and the extension of existing houses. Policy 14 seeks the protection of high-grade agricultural land from significant development.

17. The Neighbourhood Plan does not contain specific gypsy and traveller policies as that provision is contained within the District Planning Framework. Criterion e) of Policy 23 is that *'the development will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate any impact on its surroundings'*.
18. The Neighbourhood Plan Policies Map shows the built-up area boundary generally more tightly drawn than the Conservation Area boundary, the latter encompassing a field identified as The Glebe Field Local Green Space. The Green Gap referred to in Policy 1 is shown between the built-up area of Thakeham (The Street) and the new development at Abingworth Nurseries and is on the further side of the built-up area boundary to the appeal site.
19. The site is on or close to a ridge-line with the land sloping towards the village and away to the north. The converted barn is in a similar position, prominent from the north but more sheltered by a tree-line in views from the south, but the considerations under Class Q of the Order are for an existing building and the conversion should not result in the external dimensions being extended. As a result limited weight attaches to this change of use, other than providing a baseline of residential appearance and activity close to the site.
20. The site is described as Plot 3 and there are various other numbered plots to the west and north that result from the subdivision of land and which have items including buildings in place. An Article 4 Direction is in place and Neighbourhood Plan Policy 8 is stated in the text to be responding to a recent increase in such subdivision, seeking to protect the visual amenities of the countryside. A proliferation of buildings was seen as a prominent feature of the hedge-line alongside the footpath heading north, and from the footpath rising up from Crays Lane to the north-east towards the ridge.
21. The Council has supplied details of enforcement action, but it is apparent that not all items would be removed, and some degree of subdivision would likely persist. It is reasonable to attach some weight to the likely residual effect, particularly in respect of the immune items of Plot 8.
22. Of apparent relevance is the refusal of permission on Plot H for change of use from agricultural land to residential and including the stationing of a caravan for the temporary period of 2 years (Ref DC/15/0321). The Officer's Report states that applicants were not employed in a rural business and the proposal was contrary to the then Policy DC1 of the 2007 Plan. Though not referred to, it is apparent that the occupiers were not claiming to be travellers and thus be eligible for consideration under local or national policies concerning that exception to general policies of restraint on development in the countryside.
23. The day-room and caravans associated with the appeal proposal would not be seen from the footpaths further north, due to the topography and intervening

- vegetation, although the site would be visible from the footpath and approach lane from the village and from the Local Green Space. However, control can be exercised to ensure suitable landscaping in order to soften the effects, in line with paragraph 26b) of Planning Policy for Traveller Sites, whilst avoiding the harm identified in paragraph 26d) with regard to walls and fences.
24. There would be conflict with District Planning Framework Policy 2 and Neighbourhood Plan Policy 1 through being a countryside location, but traveller sites are commonly situated and permitted in the countryside, subject to the criteria in District Policy 23. With the use of conditions on landscaping and to control the numbers of caravans for this small family site, it is concluded that criterion e) on the visual effect would be met.
25. With regard to design and Neighbourhood Plan Policy 5, the appeal proposals are no different from usual traveller site provisions, a mobile home, a touring caravan and a dayroom, and national policy does not seek to proscribe further design requirements.
26. On the question of subdivision and Neighbourhood Plan Policy 8, a small family site such as this would likely be formed through subdivision of a larger field, and landscaping would commonly be used to separate the residential area from any associated grazing. It is pertinent that although there is enforcement action on many plots as shown on the Council's submissions, fencing and gates, and therefore visual subdivision, have been expressly permitted on Plots 1 and 2 to the west and items on Plot 8 will remain. The appeal site, Plot 3, is a visual continuation of those plots and the barn conversion to the east continues the line of subdivision further along the ridge. The established character and appearance of the area therefore includes subdivision and the appeal proposals would not appear out of character in this group.
27. Policy 9 has been cited by the Parish Council as a list of appropriate development and since the appeal proposal is not on that list it is not considered to accord with the policy. The policy contains a list of types of development that would be supported; equestrian, the conversion of agricultural buildings and proposal to extend houses in the countryside. The Policy sets out the terms under which that support would be given. National policy allows for other forms of development in the countryside, including but not restricted to traveller sites, and as worded, Policy 9 does not appear to seek preclusion of these other types of development either.
28. Policy 14 specifically refers to '*significant development*' when seeking to avoid the loss of Grade 2 and 3a land. The appeal proposal is not significant development, and some pasture or similar use would remain, the landscaping scheme being clear as the area set aside for residential use.
29. Comment has been made over the use of the footpath Right of Way to gain vehicular access to the site. The site plan rightly showed the access track to be part of the red-line application site, and the appellant has rights to pass and re-pass. Refuse collection can be made as agreed and the site is served by electricity and can accommodate its own sewage and surface water disposal, a condition would be required to ensure the required standards are met. As a result, District Framework Policy 23 criteria b) and c) can be satisfied.
30. The remaining criterion in Policy 23 is a); '*there must be no significant barriers to development in terms of flooding, poor drainage, poor ground stability or*

proximity to other hazardous land or installation where conventional housing would not be suitable'. These requirements are met in the case of the appeal site and proposals.

31. To conclude and taking account of the findings of the first main issue on accessibility, the proposal would not harm the character and appearance of the area, and would accord with all criteria of the only Development Plan policy which is specific to the provision of windfall gypsy and traveller sites, notwithstanding that it is not essential that they be met, the requirement being only to take them into account. There is conflict with Neighbourhood Plan Policy 9, but the gypsy and traveller policies at District and national level should take precedence, use of land by gypsies not being listed in Policy 9.

Other Considerations

32. Paragraph 3 of Planning Policy for Traveller Sites, states that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. Paragraph 10 requires Councils to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
33. It is agreed that the Council are unable to demonstrate the required level of supply, the timetable for rectifying that situation has slipped and the sites allocated through Policy 21 have not yet come forward. The Officer's Report accepts that this is a significant consideration in favour of the proposal, provided it does not significantly depart from the criteria in Policy 23, and that requirement has been met.
34. There is unmet need in the Council area and a failure of policy to meet that need. In addition, the appellant and his family are in housing need and there are no viable alternatives other than roadside living should they lose the use of the site. Such precarious living conditions would not be in the best interests of the children, which is a primary consideration. Access to education and healthcare would be seriously disrupted, and the location of the site has not caused difficulties in such access at present.
35. Whilst these matters need not be required to be taken into consideration, given the accordance with Policy 23, they add weight to the finding that the site is a suitable location for gypsy and traveller use, and outweigh the limited effect on the aims of Neighbourhood Plan Policy 8. For those reasons it is concluded that permission should be granted as applied for.
36. The application was for the use of land for a private gypsy and traveller caravan site and was not requested to be either temporary or personal. Whilst these options were discussed at the Hearing in order to fully explore the possible outcomes, the conclusion which flows from the reasoning above is that the site is suitable for permanent occupation and that the personal circumstances of the appellant and his family are common to many traveller families and have not had to be taken into account with specific reference to this family. As a result it is concluded that a permanent, non-personal permission should be granted, subject to the site only being occupied by gypsies and traveller as defined in Planning Policy for Traveller Sites.

Conditions

37. The Officer's Report recommending that permission be granted contained a list of conditions and as the site was not being occupied at that time, they included some pre-commencement conditions to ensure mitigation. This list was carried forward into the Appeal Statement and was discussed at the Hearing.
38. In the event the family had moved onto the site and the distressing circumstances surrounding the perceived need to leave their previous home were alluded to at the Hearing. As a result, not only are pre-commencement condition inappropriate, but further mitigation would need to be secured by a condition that provided for the use to cease and items be removed in default.
39. In addition to the gypsy and traveller condition previously referred to, conditions are necessary and reasonable in order to seek details of drainage, lighting, the removal of existing poor quality buildings, vehicle movements, landscaping and details on refuse storage and collection. The maximum numbers of caravans should be stated, and further conditions should prevent industrial, commercial or business activity including the external storage of materials; and to limit the size of vehicle.

Conclusions

40. The proposals satisfy the criteria in the relevant Development Plan policy on the provision of windfall gypsy and traveller sites. The arrangement of adjacent plots and the barn conversion allow the site to be assimilated into the character and appearance of the area and an acceptable access can be provided. Looking specifically at the only reason for refusal, the site is not so distant from day-to-day services, shops, education and health as to be unsuitable for the intended use. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

N Pettifer

Horsham District Council

FOR THE APPELLANT:

A Murdoch
W & C Mitchell

Murdoch Planning
Appellant and spouse

INTERESTED PERSONS:

O Richards
M Keenan
K Dawes
C Pightling
W Ward

Thakeham Parish Council
Local resident
Local resident
Local resident
Local landowner

DOCUMENTS

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| Document | 1 | Enforcement action plan and photo Plot G submitted by Parish Council |
| Document | 2 | Appeal Decision and Costs Decisions relating to Bramble Barn (DC/16/0272) submitted by District Council |
| Document | 3 | Council's Enforcement and Compliance status on small-holding plots and explanatory plan (Thakeham Plots and Plan) submitted by District Council |
| Document | 4 | Article 4 direction and map for background clarification submitted by District Council |
| Document | 5 | Enforcement Notices served in respect of Plot G, which are subject to recently lodged Appeals (APP/Z3825/C/20/3245103 & APP/Z3825/C/20/3245105) submitted by District Council |
| Document | 6 | Background Evidence for Thakeham Neighbourhood Plan – Subdivision of Fields submitted by District Council |
| Document | 7 | Officer's Report DC/15/0321 submitted by Parish Council |
| Document | 8 | Enforcement context submitted by Parish Council |
| Document | 9 | Appellant's final comments on foregoing Documents |

Schedule of Conditions

- 1) 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).
- 2) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days, or such longer period as considered reasonable of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for:
 - a) The means of foul and surface water drainage of the site;

- b) Proposed external lighting within the site;
- c) The removal of the existing storage buildings and structures on site.
- d) Details of the anticipated numbers, frequency and types of vehicles used during the laying out of the site and the construction of the dayroom, and the delivery of the mobile home.
- e) The hard and soft landscaping of the site including fences and gates, areas of hardstanding and a programme of the planting of vegetation, to be in general accordance with drawings TDA.2398.01B, 02, 03B, and 04.
- f) Details of arrangements for the storage and collection of refuse and recycling.

shall have been submitted for the written approval of the Local Planning Authority and the said scheme shall include a timetable for its implementation.

- ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 3) There shall be no external lighting on the site other than as approved under Condition 2) above.
 - 4) Any plants as approved and provided under Condition 2) above which within a period of 5 years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
 - 5) No industrial, commercial or business activity shall be carried on from the site, including the external storage of materials.
 - 6) No more than 1 static caravan or mobile home, and no more than 1 touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (or any Act revoking or re-enacting these Acts), to be stationed on the site at any time.
 - 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.