



Appeal Decision

Hearing Held on 25 and 26 February 2020

Site visit made on 26 February 2020

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 27 March 2020

Appeal Ref: APP/R3650/W/19/3230531

**Pollingford Place, Horsham Road, Ellen's Green, Rudgwick, Horsham
RH12 3AS**

- 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 M Wenman against the decision of Waverley Borough Council.
 - The application Ref WA/2018/1474, dated 8 August 2018, was refused by notice dated 7 December 2018.
 - The development proposed is described as 'change of use of land to gypsy/traveller site incorporating: 7 no. private pitches each including 1 no. dayroom, 1 no. mobile home; parking area for touring caravans to be also used as seasonal transit pitches; and associated hardstanding and landscape areas.'
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to gypsy/traveller site incorporating 7 no. private pitches each including 1 no. dayroom and 1 no. mobile home; and associated hardstanding and landscape areas, at Pollingford Place, Horsham Road, Ellen's Green, Rudgwick, Horsham RH12 3AS, in accordance with the terms of the application, Ref WA/2018/1474, dated 8 August 2018, subject to the conditions set out in the attached schedule.

Background and Procedural Matters

2. The appeal site has been in unauthorised use as a gypsy and traveller caravan site for some 15 years. The number of caravans has varied over the period of occupation. However, the site is currently occupied by an extended family comprising 7 households related to the occupier of an existing lawful dwelling sited between the main part of the site and Horsham Road (the B2128). The 7 pitches proposed would be occupied by the 7 households.
3. The Council does not dispute that the families on the site meet the planning definition of 'gypsies and travellers' within the Glossary to 'Planning policy for traveller sites' (PPTS). Based on the information before me I see no reason to take a different view. Therefore, PPTS, which sets out the Government's policy for traveller sites, applies, as do development plan and emerging policies relevant to gypsies and travellers.

4. It was clarified at the start of the hearing that the appellant did not wish to pursue that part of the development relating to the parking area to be used for touring caravans/seasonal transit pitches and the amenity building connected with the seasonal pitches. The Council did not object to this revision. As this would result in a less intensive form of development on site, no party would be prejudiced by my considering the appeal on this basis. I have changed the description of development in the decision to reflect this revision.
5. A signed Statement of Common Ground (SOCG) was eventually submitted towards the end of the hearing. I have had regard to its contents in reaching this decision.
6. The hearing remained open during the site visit which took place on the second morning.

Main Issues

7. The main issues are:
 - (1) whether the traveller site would be suitably located having regard to national and local policies;
 - (2) the effect on the character and appearance of the area;
 - (3) the effect on the living conditions of nearby occupiers, with particular reference to noise and disturbance;
 - (4) whether the site would dominate the nearest settled community; and,
 - (5) whether any harm identified, including conflict with the development plan, would be outweighed by other considerations.
8. In relation to other considerations these comprise primarily the need for, and provision of, sites; wider sustainability considerations; the availability of alternative accommodation for those occupying the site; and the other personal circumstances of those occupying the site.

Reasons

Policy context

9. The development plan comprises the Local Plan Part 1¹ (LP Part 1) adopted in February 2018 and saved policies of the Waverley Local Plan 2002 (WLP).
10. There is also an emerging Part 2 Local Plan² (eLP Part 2) which the latest Local Development Scheme of January 2020 anticipates will be published in May-June 2020, submitted to the Secretary of State in August-September 2020 and adopted in May-June 2021. Based on my experience of the local plan process, this appears optimistic. Adoption by the end of 2021 would be more realistic. The eLP Part 2 proposes to allocate gypsy and traveller pitches as required by Policy AHN4 of the LP Part 1.

Suitably located?

11. PPTS sets out that traveller sites in the open countryside that are away from existing settlements should be very strictly limited. Despite the presence of two large commercial buildings nearby and dwellings fronting Horsham Road,

¹ Waverley Borough Local Plan Part 1 Strategic Policies and Sites

² Local Plan Part 2: Site Allocations and Development Management Policies.

the predominant characteristic of this rural area is fields bounded by hedgerows with the occasional copse. The site lies in open countryside.

12. In terms of whether the appeal site is away from existing settlements, Ellen's Green, a linear hamlet, is a short distance to the south. Although the larger settlements of Rudgwick and Cranleigh are further away to the south and north-west respectively, there is no requirement that settlements, in terms of paragraph 25 of the PPTS, need to have a defined boundary, be of a certain size, or provide a particular level of services. Moreover, it is not necessary, in my view, for a site to be directly adjacent to a settlement for this element of national policy to be met. Therefore, the development does not conflict with the first sentence of paragraph 25 of the PPTS. I note that some of the proposed gypsy and traveller pitch allocations in the eLP Part 2 reflect a similar interpretation of the PPTS.
13. Policy AHN4 of the LP Part 1 deals with accommodation for gypsies, travellers and travelling showpeople. A criterion of the policy requires that traveller sites are located within a reasonable distance of local facilities and services including schools and health facilities. Policy ST1 of the LP Part 1 relates to all development schemes, seeking locations where opportunities for sustainable transport modes can be maximised, but recognising factors such as the amount of movements generated, the nature and location of the site, and that solutions will vary between urban and rural locations.
14. Ellen's Green has only limited services. I saw a memorial hall and small play area. To undertake the relatively short walk to these facilities, it is necessary to negotiate a grass verge which is narrow and uneven in places and, for stretches, to walk on the carriageway of the B2128 itself. For schools, health facilities and shops, residents need to travel to the centre of Rudgwick, some 4km away, Cranleigh, some 5-6km distance, or further afield. The latter is a larger settlement and appears to be where most of the site residents go for schooling and shopping. Horsham, some 14 km to the south-east, provides a greater range of shopping, employment and other facilities, and Guildford is further away to the north-west.
15. A bus service linking Horsham and Guildford passes the site, providing something like an hourly weekday and Saturday service in both directions. It is understood that the bus can be hailed from the grass verges on either side of Horsham Road. However, the service has some limitations. For example, it may not be possible for residents to get to nearby towns for a normal morning start for work or college. There is no service later into the evenings.
16. Walking to Rudgwick or Cranleigh would not be likely because of the distances involved and, particularly in the case of Cranleigh, a lack of footways and lighting. The distances significantly exceed acceptable walking distances set out in 'Providing for Journeys on Foot – Institution of Highways and Transportation 2000' which is the best guidance on the matter. Cycling might be a possibility but there are no off-road routes and stretches of the highways between the appeal site and local villages are subject to the national speed limit. Therefore, safety would be an issue, especially outside of daylight hours.
17. Despite the existence of some alternatives, most journeys, including shopping trips and visits to the school, doctors or hospital, are likely to be undertaken

by private vehicle. However, trips to access facilities would not be long and would be commonplace for families living in a settlement such as Ellen's Green. Vehicle sharing amongst the extended family would be likely.

18. Considering matters in the round, on balance the site is located within a reasonable distance of local facilities and services and would comply with Policy AHN4 in this regard. Similarly having regard to the factors set out, no conflict would arise with Policy ST1. These policies reflect the National Planning Policy Framework (the Framework), and that opportunities to maximise sustainable transport will vary between urban and rural areas. Accordingly, the traveller site would be suitably located having regard to national and local policies. This conclusion is reasonably consistent with those of the Inspector determining the 2006 appeals on the site³ who, in a different policy context, found that the location of the appeal site was not '*so unsustainable as to merit the refusal of planning permission on that ground alone*'.

Character and appearance

19. The landscape surrounding the site is one of undulating fields and copses interspersed by scattered farmsteads, small groups of dwellings and the occasional small settlement. Therefore, although there are pockets of commercial development such as that by the appeal site, the predominant character is one of a rural agricultural landscape typical of the Landscape Character Area (LCA) of the Wooded Low Weald. Caravans are not recognised as a key characteristic of the LCA.
20. The LP Part 1 shows the site lying within an Area of Great Landscape Value (AGLV). The AGLV was reviewed in 2007 when it was found that the south-eastern part, which includes the appeal site, had the same characteristics as the Surrey Hills Area of Outstanding Natural Beauty (AONB). The intention was to have undertaken a wholesale review of the extent of the AONB by now but that has not happened apart from consideration of some small pockets of land on the margins of the designated area. However, this background and the contents of Policy RE3 of the LP Part 1, which give the AONB and AGLV similar protection, albeit not the same policy status, support the proposition that the appeal site lies within a valued landscape. The Inspector who considered a recent housing appeal on a site near Rudgwick came to the same view⁴.
21. In terms of the more localised character within which the site is viewed, there are open fields and landscape features typical of the LCA to the north and north-east. But the site itself lies between the rear of dwellings which front Horsham Road and a large former agricultural building and yard which now appears to be used in connection with storage and distribution. Immediately to the north of the site entrance is another large building occupied by a ground maintenance business with the open areas around the building used for the storage of vehicles and machinery. Therefore, although the appeal site was predominantly an open paddock before the unauthorised use took place, its immediate surroundings are not characteristic of the LCA.

³ Appeal decisions refs: APP/R3650/A/05/1191146 & APP/R3650/C/05/2004121 dated 12 October 2006

⁴ Appeal decision ref: APP/R3650/W/19/3230164 dated 15 November 2019

22. In terms of localised visual impacts, the site can be clearly seen from the footpath which runs along part of the access road and then across fields to the north of the site. The mobile homes, caravans and fencing are also visible from the network of field paths to the east, including those on rising ground. The hills of the AONB form a distant backdrop from some of these views. Users of these footpaths are sensitive receptors. However, the site is not readily apparent from Horsham Road, apart from glimpses down the access road, because of intervening buildings and vegetation. Screening also prevents views of the site from the footpaths to the south near Pollingford Manor and to the west of Horsham Road.
23. When seen at the site visit from vantage points to the north and east, the commercial buildings to either side were apparent in framing the site as was metal security fencing to the southernmost building. However, the images supporting the Council's Landscape and Visual Assessment (LVIA), which were taken in October, show that when deciduous vegetation is in leaf, it has the effect of helping to screen the buildings either side but less so the structures and fencing on the appeal site. As a result, the lightly coloured and reflective mobile homes and caravans become the dominant feature in the view.
24. The scheme of landscaping submitted with the application would have the potential to soften views of the caravans and other structures. That said the amount of space left over for landscaping to the north-east corner and on the northern boundary of the site would be limited. Based on this mitigation I consider that the landscape and visual effects would be moderately adverse. My conclusions differ from those of the LVIA which put the effects at between major and moderate adverse. This can be explained by the LVIA focusing more on the influence of the wider pastoral landscape whereas I consider that the immediate surroundings are more relevant.
25. Moreover, there is scope for greater mitigation because the layout can be rejigged to take into account the loss of the seasonal pitches referred to in paragraph 4. Therefore, there is potential for more planting on the north-eastern part of the site and along the northern boundary. It is not possible to be precise about the residual effects of such a scheme, but it would be reasonable to assume that the end result would be that the impacts of the development over time would be less than moderately adverse.
26. In conclusion, the development would have some adverse effects on the character and appearance of the area. As a result, there would be conflict with Policies RE1 and RE3 of the LP Part 1 and Policy D1 of the WLP, as the intrinsic character and beauty of the countryside would not be safeguarded and the distinctive character of the landscape would not be respected. The development would not protect and enhance a valued landscape as set out in paragraph 170 of the Framework. I do not see Policy TD1 of the LP Part 1 as being directly relevant as it is primarily aimed at built development.
27. In terms of Policy AHN4, the criterion relating to character sets the bar at 'unacceptable impact.' Taking into account the above factors, in particular the site's location within a valued landscape, I consider that the bar has been exceeded and, therefore, there is conflict with Policy AHN4 in this regard. National and local policy does not preclude traveller sites in the countryside. Sites do not need to be hidden from view. But the particular landscape

impact of each site needs to be assessed on its own merits, and unacceptable impacts, as in this case, put into the planning balance.

28. The Inspector in the 2006 appeal decisions found '*significant harm to the character and appearance of this area*'. However, I am not aware of what mitigation was proposed or possible with those schemes whereas in the development before me there appears to be scope for a good level of soft landscaping.

Living Conditions

29. There are three dwellings that back onto the appeal site. However, the common boundary is screened by high conifers. Given the low-lying nature of the development, there would be no loss of privacy, light or outlook for neighbouring residents.
30. There has been an increase in activity on the site with its occupation by seven families compared to use as a garden for a single dwelling and a paddock. Although a residential use, there will now be appreciably greater noise and disturbance in this countryside location, particularly for neighbouring occupiers wishing to enjoy the relative peace and quiet of their back gardens. The commercial uses either side will generate some noisy operations but less so during evenings and at weekends. Similarly, I noted some traffic noise from the B2128, but this is also likely to quieten down outside weekday hours.
31. Conditions can be imposed to prevent commercial activities. There is scope to amend the layout and provide a buffer to the western boundary. There is unlikely to be much noise arising from residents using the day rooms. However, even so, outdoor activity would still be considerable and the effect on the living conditions of nearby occupiers, with particular reference to noise and disturbance, would still be detrimental. There would be conflict with Policies D1 and D4 of the WLP and Policy AHN4 of the LP Part 1 in respect of this issue as the development would be significantly harmful to the occupiers of neighbouring properties. This finding is broadly consistent with those of the 2006 appeals Inspector.

Settled Community

32. PPTS seeks to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community. I have not been made aware of any other traveller sites nearby. There are about 10 dwellings in the loose knit ribbon of development on Horsham Road close to the appeal site. Even taking these properties as the nearest settled community, the development only represents about 40% of the households and, therefore, would not dominate it, either physically or culturally.
33. However, to my mind the settled community, even taking into account the constraints on connectivity, would comprise Ellen's Green together with outlying groups of dwellings, such as those near the appeal site on Horsham Road, and isolated dwellings near the settlement. In the context of this larger number of dwellings, the proposal would certainly not dominate the settled community.

Other potential harm

34. Intentional unauthorised development is a material consideration in the determination of appeals. However, in this case, the reason for using the site for residential caravans appears to be because the households had nowhere else to live. Therefore, although this factor counts against the development, I give it only limited weight.

Other considerations

Need and Provision

35. Policy AHN4 sets out that provision for travellers will be made in accordance with the Waverley Traveller Accommodation Assessment (GTAA) published in June 2017. The GTAA, undertaken by ORS, identified a need for 27 pitches for gypsies and travellers who meet the PPTS definition – 19 pitches between 2017-22 and 4 pitches for each of the 5-year periods 2022-27 and 2027-32. The GTAA also identified a need for up to 24 pitches for unknown households that surveyors were unable to interview and may meet the definition, and 10 for households that did not meet the definition. The Inspector who examined the LP Part 1 found that the GTAA was a comprehensive and soundly based piece of work. This appeal is not the forum for rerunning the GTAA.
36. Unfortunately, the SOCG did not establish much common ground in terms of need and provision. Although I was able to establish some agreed matters at the hearing, the appellant was still critical of the GTAA for a number of reasons. However, the only point that I consider is material in terms of the need figures is that the GTAA did not include the households on the 7 unauthorised pitches on the appeal site as forming part of the need of those who meet the PPTS definition. This is because, when the survey work was undertaken, insufficient information was available to reach that conclusion. The Council now accepts that the households meet the definition. This would add 7 pitches to the PPTS definition need, leading to an overall figure of 34 pitches and 26 pitches in the 2017-22 period.
37. The appellant suggests that the GTAA underestimated the need from unknowns. The GTAA conclusions were based on past interviews nationwide which suggested that typically around 10% of unknowns are likely to meet the PPTS definition and should be addressed through PPTS compliant local plan policy. More recent interviews undertaken by ORS suggest that 30%, not 10%, of unknowns, typically meet the PPTS definition. That said this point is somewhat academic as the Council is choosing to provide 66% of the pitches for unknowns.
38. In relation to hidden need, there is no locally derived evidence to support the appellant's assertions that there is a need for around 20 pitches for those living in bricks and mortar. The assessment of a need for 7 pitches from concealed households seems reasonable. Any need from doubling-up at Bridge View can be met from vacant pitches at the site. The household formation rate of 1.7% is supported by plausible evidence, including the demographics of those households interviewed.
39. Overall, there is, as things now stand, likely to be a modest underestimate of need for those who meet the PPTS definition because of the factor outlined in paragraph 36.

40. In terms of provision, some 22 pitches have been granted planning permission since the 2017 base date. Using the figures from the GTAA, the Council has met the need from 2017-22 and most of the need for 2022-27 for those that meet the PPTS definition. However, if the households on the appeal site are counted as forming part of the 2017-22 PPTS definition need, then there has been a shortfall in provision in the early years of the LP of some 4 pitches.
41. At the time of the hearing the Council indicated that applications were pending for some 6 pitches that were likely to be approved. In addition, the eLP Part 2 proposes allocations which will provide a further 25 pitches. The intention is that the allocations will meet any remaining needs of both the knowns and unknowns over the Plan period.
42. The Council is unable to rely on pending applications as being deliverable and part of its 5-years' supply. Similarly, potential allocations should not count towards deliverable supply as there is no guarantee that they will form part of the adopted plan. Moreover, as explained earlier, the eLP Part 2 is unlikely to be adopted until the end of 2021 at the earliest and it will take some time after that for allocations to translate to pitches on the ground.
43. Overall, taking into account the above, the PPTS definition need is now likely to be greater than identified in 2017 and supply does not match the need. For these reasons, I am unable to conclude that there is a sufficient supply to provide 5 years' worth of sites. The appeal site would make up the shortfall.
44. The appellant also considers that there has been a failure of policy by the Council. However, the GTAA is reasonably up to date as is the policy which it supports. The GTAA does not underestimate the overall need. Moreover, the Council has granted a number of planning permissions in recent years and is seeking to meet the remaining need for both knowns and unknowns over the plan period through allocations together with further permissions. Although there were failings by the Council before 2017, significant progress has been made since and I do not consider that there has been a persistent failure of policy.
45. In considering this issue, I am mindful of the accommodation needs of those households who do not meet the definition but still need a traveller pitch. This is a section of the community referred to in paragraph 61 of the Framework. They are likely to have a cultural aversion to residing in brick and mortar. Planning permissions, pending applications and proposed allocations would not meet their needs based on the total need for 61 pitches identified in the GTAA. However, whilst an important consideration for the Council going forward, it is not something that this decision turns upon.

Wider sustainability considerations

46. Paragraph 13 of PPTS recognises that whether traveller sites are sustainable should be considered in the round taking into account economic, social and environmental dimensions. Accessibility of local services, including by different modes of travel, and the other matters considered under the first main issue, are only part of the consideration of sustainability.
47. There has been reference to some incidents of anti-social behaviour. However, there is no reason why the site occupants should not exist peacefully, and build on their integration, with the local community if respect

and good neighbourliness is shown by all. Resolution of the site's planning status after a long period of occupation should make occupants feel settled and should help to reduce any tensions.

48. A settled base would allow the residents to continue to access health services and for the younger children to carry on or start regular school attendance. Remaining on the site would prevent the need for long-distance travelling and encampments by the roadside which can lead to tensions between the settled and traveller communities and the potential for anti-social behaviour. The site is capable of being one of good environmental quality. There is no evidence that the occupation of the site puts pressure on local infrastructure or services. The site is not in an area at high risk of flooding. The site allows those occupants who work, to live and travel for work from the same location.

Alternative Accommodation

49. The privately-owned pitches that have been granted planning permission in the District are not available to the families on the site. Likewise, those with applications pending. These additional pitches are likely to be for existing families that occupy the sites, the new households that will be formed from those existing households or extended family.
50. The allocations proposed in the eLP Part 2 are not necessarily available now. Moreover, most are privately owned and are likely to be used to accommodate household growth deriving from, or the extended family of, existing residents. There is no room on the Surrey County Council operated site, The Willows, which has a long waiting list. The proposed allocation which would extend The Willows has some constraints, such as access, and is shown as likely to come forward later in the LP period. The Council accepts that there are no alternative sites currently available.

Personal Circumstances

51. The families have been on the appeal site for some time. It is stated that most of the children were born and have remained at the site all their life. There are 10 children on the site of which 7 attend local primary schools. The 2 children of pre-school age will attend local schools once they are old enough. Some of the youngsters participate in local community activities such as a children's football team. Four of the adults have significant health issues.
52. There would be advantages for the general well-being and state of mind of the parents in being finally settled and being able to provide a stable home, access to basic amenities and a secure living environment for their children. If the parents are content this would make the children's life much happier. This is particularly the case for one of the parents who has significant mental health issues, which would be exacerbated by losing a settled base and not having her extended family around her, including her mother who is her main carer. The extended family also help her with her childcare. Some of the other adults with health conditions rely on care from the extended family.
53. A settled base would allow the children of school age, including some who have additional learning needs, to continue to attend local schools, those of pre-school age do so in the future and all of the residents to continue to access health care. The benefits of a settled base are well-documented in

terms of education and access to health care. Living together as part of an extended family is part of the traditional gypsy way of life.

54. Having a settled base would be in the best interests of the children. In stark contrast the alternative of an itinerant life would be damaging to the education, health and well-being of the families. It could have particularly disastrous consequences for at least one of the households. Moving from place to place and living by the side of the road would be likely result of dismissing the appeal because of the enforcement and injunction proceedings already initiated by the Council.

Other matters

55. The vehicular access to the site has acceptable visibility. The site is served by a reasonable highway network.
56. Pollingford Manor and West and East Cottages to the south of the appeal site are Grade II listed buildings. Because of the distance and intervening screening between the site and the designated heritage assets, the use would not cause any harm to their significance.

Planning Balance, Conditions and Conclusion

Planning Balance

57. There would be harm to both the character and appearance of the area and the living conditions of nearby residents. I attach significant weight to both of these harms. Limited weight is attached to the harm caused by intentional unauthorised development.
58. The issues of whether the site is suitably located and whether it would dominate the local community are neutral factors in the planning balance. In relation to the former, whilst I have concluded, on balance, that no harm would arise, it is not a small private site. All things considered I acknowledge the Council's preference for locating traveller sites, particularly the bigger ones, closer to larger settlements. This is the direction the Council is taking with most of its proposed allocations. Hence, I do not see this factor as a benefit.
59. In terms of benefits, based on a reasonable estimate of current needs and having regard to existing provision, there is unlikely to be a 5-year supply of specific deliverable sites. I attach moderate weight to this factor. The advantages of providing a settled base in terms of wider sustainability considerations is a benefit of moderate weight. The lack of alternative sites for the families attracts considerable weight. The personal circumstances of the residents should be afforded substantial weight in the balance in view of the particular health issues affecting some of the adults which then has implications for the best interests of the children which is a primary consideration. Added to this are the Human Rights and equality duty implications if the appeal was to be dismissed. Permission would have positive impacts in these respects.
60. The development conflicts with elements of Policy AHN4 which is the most important policy for determining the appeal. Because of the way that the policy is constructed, proposals must meet every criteria of the policy and also comply with other policies of the Plan which would not be the case. There

would also be conflict with Policies RE1 and RE3 of the LP Part 1 and Policies D1 and D4 of the WLP. There would be conflict with the development plan overall.

61. The LP Part 1 was adopted about 2 years ago. The policies are reasonably up to date having regard to their degree of consistency with the Framework. Although Policy AHN4 refers to the GTAA which is coming up to 3 years old, the need figures are not far off the mark. The policy does not prevent the Council allocating more sites or granting permissions for pitches over and above the need identified in 2017 and ensuring that a 5-year supply is maintained. The WLP was adopted some 10 years prior to the publication of the 2012 Framework. But the factors applied through Policies D1 and D4 are not significantly at odds with the Framework. These policies should attract substantial but not full weight.
62. However, notwithstanding the harm that would be caused and the conflict with the development plan, I consider that there are weighty factors in favour of granting planning permission as set out in paragraph 59. For these reasons, material considerations indicate that the appeal should be determined otherwise than in accordance with the development plan.
63. These conclusions are different to those arrived at by the 2006 appeals Inspector. My decision explains any differences in terms of assessment of harm. Benefits will not be the same now as in 2006. It is a matter for the decision maker to exercise their own judgement based on the evidence before them whilst having regard to the importance of consistency.
64. In arriving at these conclusions, I have had regard to the fact that more than half of the District is constrained by Green Belt and some 77% is designated as AONB or AGLV. The extent of the District outside the urban areas which is not subject to restrictive policies or valued landscapes is limited. The eLP Part 2 proposes that some of the allocations will be in the AGLV. Others are in Areas of Strategic Visual Importance (Strategic Gaps). It follows that some of the sites being proposed by the Council are also likely to cause landscape harm.
65. The Council has invited an application for a temporary two pitch site to meet the needs of particular families. However, that is not the development before me. I have considered the current scheme on its own merits. Moreover, the same advantages to be gained from mutual support provided by the extended family would not be achieved by a two-pitch site.

Conditions

66. In granting planning permission, a condition limiting occupation to the particular families is necessary as personal circumstances have been a decisive factor in granting planning permission. There is no need for an additional condition limiting occupation to those who meet the definition of travellers within PPTS as the families' status is not in doubt. Once occupation by the families ends the site would need restoration which should also be required by condition.
67. A condition should be imposed to require compliance with the plans for the day rooms for certainty. Details of the external materials of the day rooms are required in the interests of the character and appearance of the area.

68. A site development scheme is needed to ensure a revised site layout to reflect the removal of the touring caravan area/utility block from the scheme; a comprehensive soft and hard landscaping scheme; and lighting, drainage, and refuse/recycling storage provision. Such as scheme would protect the character and appearance of the area, prevent pollution and unacceptable surface water run-off, and be in the interests of the living conditions of nearby residents and occupants of the site. The landscaping will require maintenance which should also be secured by condition.
69. Conditions are required to limit the number of pitches, caravans and commercial vehicles and control commercial activities in the interests of the character and appearance of the area and to safeguard the living conditions of nearby residents.
70. A condition requiring a Construction Management Plan is not necessary as the extent of building works is limited. A condition removing permitted development rights is not required as the Site Development Scheme should ensure appropriate controls over the way the site is developed.

Conclusion

71. For the reasons given above I conclude that the appeal should be allowed subject to the conditions discussed above and set out in the attached schedule.

Mark Dakeyne

INSPECTOR

Attached – Schedule of Conditions

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No: TDA.2409.01; Proposed Semi-Detached Day Rooms Drawing No: TDA.2409.04; and Proposed Single Detached Day Room Drawing No: TDA.2409.05. The Existing Site Layout Drawing No: TDA.2409.02; the Proposed Site Layout and Detailed Landscape Scheme Drawing No: TDA.2409.03; and the Proposed Utility Block Drawing No: TDA.2409.06 are not approved.
- 2) The occupation of the site hereby permitted shall be carried on only by:
Mr Mark Cooper and Mrs Sarah Cooper and any resident dependants;
Mr Mark Cooper Jnr and Mrs Crystal Cooper and their resident dependants;
Ms Angeline Wenman and her resident dependants;
Ms Louise Newland and any resident dependants;
Ms Louise Wenman and her resident dependants;
Mr Matthew Wenman and Mrs Polly Wenman and any resident dependants;
and,
Mrs Sadie Lee, her partner Matthew, and her resident dependants.
- 3) When the land ceases to be occupied by those named in condition no 2 above, the mobile homes, touring caravans, day rooms, structures, materials and equipment brought onto the land or works undertaken in connection with the use shall be removed and the land restored to its condition before the development took place.
- 4) The development hereby approved shall comprise no more than 7 pitches.
- 5) No more than 14 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 7 shall be static caravans or mobile homes) shall be stationed on the site at any time.
- 6) 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 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - (i) within 3 months of the date of this decision a scheme (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the local planning authority for:
 - (a) a revised site layout taking into account the deletion of the area shown for the parking of touring caravans and the associated utility block on Drawing No: TDA.2409.03;
 - (b) a revised hard and soft landscaping scheme. Hard landscaping shall include means of enclosure and surfacing materials. Soft landscaping shall include identification of all trees, shrubs and hedges to be retained showing their species, spread and maturity; new tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; and a schedule of landscape maintenance for a period of 5 years following initial planting;
 - (c) details of external lighting within the site;
 - (d) details of foul and surface water drainage; and,
 - (e) details of communal storage and collection area for refuse and recyclables together with a turning area for refuse and recycling collection vehicles.

(ii) If within 12 months of the date of this decision the local planning authority refuse to approve the Site Development 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 revised site layout, landscaping scheme, lighting, drainage and refuse/recyclables storage and turning area comprising the Site Development Scheme shall be implemented in full in accordance with the approved details no later than 6 months from its written approval.

Upon implementation of the approved Site Development Scheme specified in this condition, that scheme shall thereafter be maintained. No lighting, hardstandings or means of enclosure other than those forming part of the approved scheme shall be constructed or erected on the site.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) If within a period of 5 years from the implementation of the soft landscaping, any trees or plants which formed part of the approved landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 8) No more than one commercial vehicle per pitch shall be kept on the land. Each vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site except within the relevant pitch and shall not be used other than by occupiers of that pitch. No other commercial vehicles shall be kept on the land.
- 9) No commercial activities, including the storage of materials, shall take place on the land other than the storage of materials in vehicles authorised to be parked on the site.
- 10) Prior to the construction of the day rooms hereby permitted, details of the external facing materials for the walls and roofs shall be submitted to and approved in writing. The buildings shall be constructed in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Matthew Green Director, Green Planning Studio Limited

Stephen Cottle Of Counsel

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Jupp BA(Hons) MRTPI LLM Planning Solutions

David Lintott Of Counsel

Steve Jarman BSc Dip TP PGC Senior Research Executive, Opinion Research
Services Limited

John-Paul Friend BA (Hons) Dip LA CMLI Director, LVIA Limited

DOCUMENTS SUBMITTED AT THE HEARING

DOC 1 – Court of Appeal Judgement - Braintree District Council v SSCLG [2018]
EWCA Civ 610

DOC 2 - United Nations Convention on the Rights of the Child – Committee on the Rights of the Children – General comment No 14 (2013)

DOC 3 – Report on the Examination of the Hart District Council Local Plan – Strategy and Sites

DOC 4 – CIHT Planning for Walking – April 2015

DOC 5 – Waverley Borough Council Adopted Policies Map (East) February 2018

DOC 6 – List of conditions

DOC 7 – Signed Statement of Common Ground

DOC 8 – Updated and signed witness statements

DOC 9 – High Court Judgement - Stroud District Council v SSCLG [2015] EWHC 488 (Admin)