



Appeal Decision

Site visit made on 21 September 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2020

Appeal Ref: APP/N1730/W/19/3240855

**Land adjacent to White Lion Antiques Hartford Bridge, London Road,
Hartley Wintney, Hook, Hampshire RG27 8AE**

- 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 G Collins against the decision of Hart District Council.
 - The application Ref 18/00571/FUL, dated 12 March 2018, was refused by notice dated 10 May 2019.
 - The development proposed is described as 'change of use of land to a private Gypsy and Traveller Caravan site consisting of one mobile home, one touring caravan and one amenity day room'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since issuing its decision the Council has adopted The Hart Local Plan (Strategy and Sites 2016 - 2032) (HLP), which has superseded several of the policies in the Hart District Local Plan 1996 - 2006 (LP). The Hartley Wintney Neighbourhood Plan 2017 - 2032 (NP) has also been made. The policies in these documents now form part of the development plan alongside the saved policies of the LP. It is incumbent upon me to base my decision upon the most up to date planning policy. The appellant had an opportunity to address these changes through his appeal submissions.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would preserve the setting of the Grade II listed building known as The White Lion¹;
 - The effect of the proposed development on the setting of the Hartley Wintney Conservation Area and the Hartfordbridge Conservation Area;
 - The effect of the proposed development on the character and appearance of the landscape;
 - Whether the appeal site would be a suitable location for the proposed development, with particular reference to the risk of flooding; and

¹ Referred to as the 'Whyte Lyon' in the list description.

- Whether the proposal would provide adequate living conditions for future occupants, with particular reference to the proximity of a pylon and overhead lines.

Reasons

Whether the proposal would preserve the setting of The White Lion

4. The White Lion was listed in 1952 and is a former purpose-built coaching inn dating from at least the 18th Century with later 19th Century extensions and alterations. The White Lion, which is now in use as an antiques centre and tearoom, is a large building exhibiting a polite architectural composition with an imposing and attractive façade. The building is clearly visible from the A30 and is a focal point along this road due to its size and the absence of buildings immediately to either side. Thus, the building has an aesthetic value and notable presence, both of which were probably original design aim. It is still possible to experience the building in views along the A30 with a semblance of its historic use as a grand coaching inn.
5. The building's setting is intrinsically linked with the Hartford Bridge, which is an historic crossing over the River Hart and therefore a natural location to place a coaching inn. Historic maps and photographs demonstrate that the building once stood in an apparently quiet rural setting with a tea garden opposite the main façade and water meadows to the north. However, the 20th Century has not been kind to the building's setting with the A30 widened to create a dual carriageway that incorporated the tea garden. In addition, a pylon was erected in the water meadows to the north. To the south a large car park has been erected and this is now cluttered by sheds and other paraphernalia. As such, the tranquil rural setting has been diminished. In addition, a bulky pair of semi-detached dwellings have recently been erected to the rear of the building.
6. Nevertheless, it is still possible to understand how the building relates spatially and visually to London Road and the Hartford Bridge and there is still an overriding rural character to its environs due to the presence of trees, hedges, fields and water meadows nearby and along the A30. Moreover, the building retains its presence as a focal point in the wider rural context. Therefore, the broad rural context, the relationship to the Hartford Bridge and A30 and its aesthetic value as a prominent former coaching inn in local views, including 'Distinctive View C' in the NP, are aspects of the building's setting that provide it with evidential, historic and aesthetic value and significance.
7. The appeal site, and the land immediately surrounding it, no longer has the visual appearance of water meadows, like those across the road, because it is used for the keeping of horses and is criss-crossed by fencing. Nevertheless, being a paddock, the site has retained a broad rural character and its openness facilitates some distant views of trees along the river corridor. Accordingly, the openness of the site provides a sense of rural continuity and assists in framing the White Lion as a focal point in views from the A30.
8. The openness of the appeal site also allows a visual and spatial connectivity between the listed building and the bridge, thereby allowing the historic relationship to be appreciated. For example, when standing in the vicinity of the bridge it is still possible to experience a semblance of the view shown in Figure 27 of the appellant's Heritage Appraisal and Impact Assessment. Thus, the appeal site currently contributes positively to the setting of the White Lion.

9. The appeal scheme would involve a mobile home and amenity building being sited at the appeal site on top of stilts. A hard standing would also be constructed for vehicle parking. This would entirely alter the character of the appeal site from a rural paddock within a green wedge to a residential pitch. Due to its utilitarian and residential appearance, which would endure despite any cladding, the mobile home would appear out of place in the context of paddocks and would be a visual detractor directly next to the listed building. It would interrupt the visual relationship between the listed building and the bridge, erode its rural setting and diminish the way in which the White Lion is experienced as a focal point in views from the A30. The proposal would therefore significantly harm the setting of the listed building.
10. The appellant intends to plant a belt of landscaping around the pitch in an attempt to screen the development. The appellant's Landscape Design Statement indicates that this would be native planting and therefore it is reasonable to deduce from this that the existing immature conifer hedge, which is itself out of place due to its suburban appearance, would be removed. However, new native landscaping would take time to mature and would be ineffective during this period. Moreover, it cannot be assumed that the landscaping would remain *in situ* for the life of the development, as it could be removed or die. This is a particular risk in this instance as the landscaping would enclose a reasonably modest pitch and would have to be very thick and mature to be effective. Therefore, future occupants may seek to remove it if it were found to be a nuisance, hard to manage or oppressive or if they wished to establish a view.
11. The condition recommended in the appellant's Landscape Design Statement would only protect the landscaping for three years. A condition requiring the landscaping to remain in place and properly managed for many years longer, which would be necessary, would result in an unreasonable burden on future occupants. If the landscaping were removed, then the proposal would be particularly exposed and discordant with the notable harm this would entail.
12. In conclusion, the proposal would seriously harm, and thus fail to preserve, the setting of the listed building contrary to the expectations of the Act². This harmful impact would also be contrary to the aims within Policy NBE8³ of the HLP and Policy GEN1 of the LP, that proposals should conserve or enhance historic heritage and a heritage asset's setting.

The effect on the setting of the nearby Conservation Areas

13. The Hartley Wintney Conservation Area (HWCA) encompasses a rich mix of historic buildings, many dating from the 18th and 19th Centuries, and is focussed on a collection of greens and commons close to the A30 London Road. It is experienced as a rural village set within an agricultural landscape. The conservation area therefore derives significance from its rural landscape setting as well as the buildings and spaces within it. The Hartfordbridge Conservation Area (HCA) also derives much of its significance from its period buildings and their relationship to the A30 and Elvetham Estate as well as its rural setting, particularly the corridor of the River Hart which it adjoins.

² Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

³ Policies CON17 and GEN4 of the LP have been superseded.

14. The appeal site encompasses a parcel of land within the River Hart corridor located outside but adjacent to the HWCA and close to the HCA. It is an important green buffer between the White Lion and the Hartford Bridge. The latter is a heritage asset that is not located within either of the conservation areas but is of significance to both as a historic river crossing.
15. The appeal scheme would erode the verdant character and openness of the land between the river and the White Lion, thereby diminishing in a modest way the rural setting of the conservation areas. The mobile home and associated paraphernalia would also visually jar with the nearby historic buildings and therefore appear both strident and discordant. I have already explained why in this instance landscaping should not be relied upon to remedy these limitations. The proposal would be seen in the context of visual detractors such as the pylon, but this does not justify further harm to the setting of the conservation areas. The proposal would therefore moderately harm the setting and significance of both the HWCA and the HCA.
16. The White Lion and the period properties along Hare Lane are identified in the Hartley Whitney Conservation Area Appraisal (CAA) as falling within Character Area 1, where they are described as part of the hamlet of Hartfordbridge. It is therefore unclear why the grouping of buildings is not included in the HCA, as the cluster does not have a distinctly different character to the wider hamlet. Moreover, the White Lion and the cottages behind it are separated from Hartley Wintney by fields to the point that they do not spatially form part of the village. Accordingly, the openness of the appeal site is not important to defining the two conservation areas because the evidence before me indicates this to be an artificial construct. Therefore, the appeal scheme would not blur the lines of separation between the two conservation areas in any meaningful sense.
17. Nevertheless, I still conclude that the moderate harm to the setting of the conservation areas would be contrary to the aims within Policy NBE8⁴ of the HLP and Policy GEN1 of the LP that proposals should conserve or enhance historic heritage and a heritage asset's setting.

The effect on the character and appearance of the landscape

18. The appeal site is located within Character Area 11 – The Hart Valley – as defined in the Council's Landscape Assessment. The River Hart, its immediate floodplain and the general pattern of mixed farmland and woodland are unifying features of this landscape character type, which is generally attractive and of good quality despite detractors such as the power lines, the A30 and the proliferation of stark fencing used to define horse paddocks. The equestrian activity means the appeal site and the land immediately around it does not have the same quality as the water meadows to the south of the A30. Nevertheless, being open paddock land along the river corridor, the appeal site overall contributes positively to the verdant setting of the Hart Valley.
19. The siting of a mobile home and an amenity building along with the other paraphernalia required to establish the pitch, such as hard surfaces, would add visual clutter of a utilitarian appearance to the Hart Valley. The development would also starkly contrast with the soft, verdant appearance of the river corridor. The proposal would also fail to visually integrate with the historic

⁴ Policy CON13 of the LP has been superseded

character of Hartfordbridge as experienced from the A30. It would therefore harm the character and visual amenity of the landscape.

20. The impact would be reasonably localised, and the White Lion would screen the pitch in some local views. Moreover, it would not be inappropriately screened behind walls and fences. However, the site would be exposed in views from the north east and thus diminish the protected view in the NP. Landscaping is proposed to soften the visual impacts, but I have set out the draw backs in relying on this as mitigation in this instance. Overall, the impact on the landscape would be moderately adverse.
21. In conclusion, the proposal would moderately harm the character and appearance of the landscape contrary to Policies NBE2⁵ and H5d) of the HLP, which state that development proposals must respect the special characteristics and visual amenity of the landscape and that Gypsy and Traveller development should not have an unacceptable adverse impact on local amenity. The proposal would also be at odds with saved Policies GEN1⁶ of the LP, which seeks to secure development in keeping with local character.

Whether the appeal site is a suitable location for the proposed development, with particular reference to the risk of flooding

22. There is no dispute between the Council and the appellant that the appeal site encompasses land within Flood Zones (FZ) 1, 2 and 3b as defined in the Council's 2016 Strategic Flood Risk Assessment. The appeal scheme drawings indicate that the mobile home would be located entirely in FZ1. However, large parts of the site would be in FZ2 with parts of the access in FZ3b. In order to steer development to areas with the lowest risk of flooding, the National Planning Policy Framework (the 'Framework') establishes a sequential test and this approach is encapsulated in the HLP. In effect, development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding.
23. The appellant has not undertaken a sequential assessment, being of the view that it is unnecessary because the Mobile Home would be sited in the part of the site that is in FZ1. Moreover, an emergency pedestrian escape route could be provided onto the A30, and within FZ1, but this would have implications for the continuity of the proposed landscaping.
24. However, the Planning Practice Guide⁷ confirms that a sequential assessment is required for this type of development unless the site is wholly within FZ1. This is a logical approach because the Framework advocates a risk-based approach to the location of development in order to avoid flood risk to people *and* property. It is apparent that a flood event could result in large parts of the appeal site being submerged with the inconvenience and cost this would entail for future occupants of the pitch even if the mobile home itself was not flooded. The sequential test is therefore relevant and necessary. A point made by the Environment Agency in objecting to the proposal.

⁵ The Council have stated that the landscape harm would be contrary to Policy NBE1 of the HLP, but this is a strategic policy that lists the types of development that are acceptable in principle within the countryside and does not refer to landscape impacts.

⁶ The Council have suggested that the proposal would be at odds with Policy CON 7 of the LP, but the proposal would not have a significant adverse effect on the riverine landscape and therefore a conflict with this policy has not been demonstrated.

⁷ Paragraph 32 Reference ID: 7 -032-20150415

25. In conclusion, the appellant has failed to demonstrate that there are no reasonably available alternative sites with a lower risk of flooding. In these circumstances the exception test set out in the Framework is not relevant and the need for the sequential assessment is not negated by the appellant's proposal to site the mobile home on stilts. Thus, the proposal would be contrary to Policies NBE5 and H5 of the HLP⁸, which seek to steer Gypsy and Traveller development away from high flood risk areas.

Whether the proposal would provide adequate living conditions

26. The appeal scheme would be located in close proximity to a very tall electricity pylon and overhead wire. As a result, the pylon would be a very dominant feature that would be constantly apparent to future occupants of the pitch when outside the mobile home. In this respect the appeal site is not particularly well placed to function as a residential pitch.
27. That said, the pylon is not a conventionally solid structure and therefore it is possible to see the tree line behind it. In addition, the appellant could take into account the siting of the pylon by orientating the mobile home with a north westerly aspect. This would be a reasonably pleasant view over paddocks and without a direct line of sight to the pylon. In this respect the outlook would be better than the two recently constructed semidetached houses behind the White Lion, which face the pylon. On balance, the pylon would not harmfully dominate the outlook from the proposed pitch.
28. Substantive evidence has not been provided by the Council to demonstrate that the electricity lines would result in harmful levels of noise to the future occupants of the pitch, or that electromagnetic charges would endanger their health and wellbeing. In this respect, there are other residential properties quite close to the overhead lines and no evidence has been provided to demonstrate it has harmed these residents. Guidance prepared by National Grid suggest residential properties should be between 30m and 60m from an overhead line depending on the voltage, but the Council concedes in the Officers report that these distances are not set in legislation or policy. Accordingly, I afford them limited weight in the absence of substantive evidence justifying them.
29. The pylon requires regular maintenance but access through the main part of the pitch would not be required. There is little of substance before me to demonstrate future occupants would be subject to regular microshocks caused by induced voltage.
30. In conclusion, the Council have not demonstrated that a residential pitch at the appeal site would result in inadequate living conditions for future occupants and therefore a conflict with Policy GEN1 of the LP, which seeks to secure development that takes into account of the proximity of overhead cables and power lines, would not occur.

Other Considerations

31. The Planning Policy for Traveller Sites (PPTS) requires local authorities to set pitch targets and to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against this

⁸ The Council's reason for refusal refers to Policy GEN11 but this has been superseded by the HLP. The Council also referred to Policy GEN1 but its relevance is unclear as it does not refer to flooding.

- target. Since issuing its decision, the Council has published an updated Gypsy and Traveller Accommodation Assessment (February 2020). This identifies a need for around 23-25 pitches to meet the needs of those adhering to the planning definition of a Gypsy and Traveller. In this context, the Council acknowledge that they are unable to identify a five-year supply of pitches.
32. The PPTS states that a local planning authorities' inability to demonstrate an up to date five-year supply of deliverable sites should be a significant material consideration in considering an application for a temporary permission. It does not say that it cannot be a material consideration when considering applications for permanent permission such as the appeal scheme, which is supported by evidence indicating a local shortage of permanent pitches. That said, the Council has recently adopted a strategy to deal with the undersupply. This includes a criteria-based policy aimed at guiding Gypsy and Traveller sites to appropriate locations and the preparation of a Gypsy and Traveller Development Plan Document (DPD), which would aim to address the unmet need identified in the GTAA. In these circumstances, I afford the absence of a five-year supply of sites moderate weight as a matter in favour of the proposal.
33. Substantive evidence has been submitted by the appellant to demonstrate he is a Romany Gypsy and that a nomadic habitat of life has been an integral part of his lineage. However, the appeal scheme is seeking a general permission for a Gypsy and Traveller pitch and is therefore not predicated on the personal circumstances of any specific individual(s). There is nothing before me to suggest that a refusal of the proposal would leave anyone without alternative accommodation or that an approval would serve the best interests of a child.
34. Nevertheless, the future occupants of the pitch are likely to have the protected characteristic of race under s149(7) of the Equality Act 2010. In such circumstances, s149(1) of the Equality Act requires due regard to be had to the need to, amongst other matters, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This includes minimising disadvantages that are connected to that characteristic. This is the Public Sector Equality Duty (PSED).
35. The appeal scheme would facilitate the establishment of a base from which to pursue a nomadic lifestyle. This would allow cultural traditions to be balanced with the practicalities of modern living thereby, advancing equality of opportunity. The absence of a five-year supply of pitches also indicates inequality in housing opportunities and the proposal would help to offset this in a modest way. These are important points in achieving the social sustainability sought by Paragraph 13 of the PPTS, as is the proximity of the appeal site to nearby settlements. It does not automatically follow that the appeal should be permitted because the PSED is relevant, but the equality implications of allowing the proposal weigh in favour of it.

Other Matters

36. The appellant has referred to the 'Turner appeal', the 2013 Gypsy and Traveller Accommodation Assessment and Policy RUR38 of the LP. However, events have moved on with the adoption of the HLP and the publication of the 2020 GTAA and therefore these are matters of very limited weight. Similarly, the appellant's appeal documentation includes three appeal decisions, but these all relate to sites in different local authority areas where circumstances would be different and therefore are of very limited weight. The GTAA for the Royal

Borough of Windsor and Maidenhead is irrelevant to proposals in the Hart District Council area.

37. The Council has suggested that the appeal scheme would have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area (SPA) without mitigation. However, given my overall conclusion, the proposal would have no effect on the SPA and therefore it is unnecessary to consider this matter further.
38. Various concerns have been raised by interested parties including reservations regarding noise, traffic generation and loss of privacy, which I have noted. However, given my overall conclusion it has not been necessary for me to address these matters further.
39. I have considered whether a temporary permission would be appropriate in this instance given that there may be a change in circumstances if the Council adopts the DPD in the timescale it anticipates. However, the evidence before me does not indicate any immediate hardship would occur from the dismissal of the appeal, such as rendering an individual homeless. Moreover, the harm I have identified would be particularly apparent during the temporary period. Thus, a temporary permission would be inappropriate in this instance.

Heritage and Planning Balance

40. The harm that would occur to the setting of the listed building would be significant but not severe and therefore it would be 'less than substantial' within the meaning of the Framework. The moderate harm to the setting of the conservation areas would also be 'less than substantial'. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal.
41. As already set out, the proposal would assist in addressing the shortfall in Gypsy and Traveller Sites and advance equality of opportunity and social sustainability. These are public benefits in accordance with the heritage balance anticipated in the Framework.
42. The proposal would also result in some modest public benefits to biodiversity from the planting of new native hedgerows and trees, which in isolation from the impacts of the mobile home would also have some limited positive effect on the setting of the listed building. However, the siting of a mobile home is not necessary to secure soft landscaping as the recent planting of a conifer hedge has demonstrated.
43. Overall, the proposal would have important public benefits but Paragraph 193 of the Framework states that great weight should be given to the conservation of designated heritage assets. Considerable importance and weight must be given to the special regard I must pay to preserving the listed building's setting⁹. Accordingly, there is a strong presumption in favour of the preservation of heritage assets. In this context I find that the less than substantial harm that would arise from the proposal would not be outweighed by its public benefits.
44. Accordingly, there would be a conflict with Paragraph 194 of the Framework as harm to designated heritage assets would not have clear and convincing

⁹ See Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

justification. The development would therefore fail to satisfy the requirements of the Act, the Framework and the development plan in relation to heritage.

45. It therefore follows that the benefits of the proposal would not outweigh the totality of harm I have identified either. In these circumstances, dismissing the appeal would not amount to an unjustified and disproportionate interference with the right for respect of private and family life under Article 8 of the Human Rights Act.

Conclusion

46. Based on the evidence before me, the proposed development would provide adequate living conditions. However, it would significantly harm the setting of a listed building and moderately harm the setting of two conservation areas and the character and appearance of the landscape. Moreover, the proposal would undermine the sequential approach to planning for flood risk. It is therefore contrary to the development plan as a whole. There are no other considerations which outweigh this finding. Consequently, for the reasons given, the appeal has failed.

Graham Chamberlain
INSPECTOR