
Appeal Decision

Site visit made on 5 October 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/Z3825/W/19/3242284

Hillside, Harbolets Road, West Chiltington RH20 2LG

- 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 Richard Lidbetter against the decision of Horsham District Council.
 - The application Ref DC/19/1031, dated 17 February 2019, was refused by notice dated 15 July 2019.
 - The development proposed is change of use to traveller pitch and conversion of existing stable to accommodation facility.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address and description of proposed development from the planning application form although I note that these are expressed differently on other documents.
3. During the determination of the planning application, the appellant was evicted from the temporary pitch that he was occupying at another location. In order to avoid being homeless he moved to the appeal site which he owns. There are a number of structures in situ at the site. However, from the evidence provided by the Council it is clear that the structures and equine use of the site, are unauthorised, therefore the existing stable referred to in the banner heading above is an unauthorised development. Prior to the unauthorised development taking place the site formed part of agricultural land. On the basis that there is no planning permission in place that would allow for the development and/or change of use of the land to an equine site and/or a traveller pitch, I must consider the nature of the site as it would have been prior to any unauthorised development having taken place.

Main Issues

4. The main issues raised in respect of the appeal are the effect of the proposed development on: -
 - a) The character and appearance of the countryside; and
 - b) Whether the site is a suitable location having regard to accessibility to services and facilities.

Reasons

5. The proposal has been put forward as a gypsy and traveller site. There is no dispute between the appellant and the Council that the proposal seeks to accommodate gypsies and travellers that satisfy the definition set out within Annex 1 of the Planning Policy for Traveller Sites August 2015 (the PPTS). A permanent planning permission is being sought.

Countryside

6. Policy 23 (e) of the Horsham District Planning Framework (the HDPF) 2015 states that development proposals for gypsy and traveller accommodation should not have an unacceptable impact on the character and appearance of the landscape and should be sensitively designed to mitigate any impact on its surroundings. Policy 26 of the HDPF requires development outside the built-up area boundaries to be essential to its countryside location in order to protect the rural character and undeveloped nature of the countryside against inappropriate development. This policy sets out criteria which development and/or uses must meet. Of these criteria, the proposal could be considered to fall within criterion 4 that states 'enable the sustainable development of rural areas'. Policy 26 also requires development to be of a scale and level of activity appropriate to its countryside character and location.
7. The site lies within an area predominantly characterised by farmland. Whilst the appellant contends that within the immediate vicinity of the site there are a plethora of small plots and some bunding, I observed that apart from the adjacent yard the site is surrounded by fields. The Council advises that from historical photography the site was an untouched area of grassland/field which formed part of a larger area of land. As such, it would have had an undeveloped nature prior to those unauthorised developments that have taken place at the site.
8. The creation of a traveller site, with proposed dayroom, mobile stable, static and touring caravans, along with hard surfacing, would be development out of keeping with, and harmful to, the rural character and appearance of the area. Whilst the proposed design of the structures may reflect that of rural buildings, the domestic use of the site would nonetheless substantially alter the character and appearance of the rural landscape.
9. To some extent the hedge would screen the site in views from the existing public footpath and a 7 metre landscape buffer on the site's western boundary could screen the development in some longer distance views. However, I was able to see the unauthorised development that has taken place through the existing hedge. I do not consider that this screening would sufficiently visually mitigate the proposal. Conversely, I consider that screening the site would sub-divide the land and create an uncharacteristic small site enveloped by landscaping out of keeping with the more open character of the fields in the vicinity of the site and of which the site originally formed part.
10. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the countryside. As such, the proposal would conflict with Policies 2, 23, 25, 26, 31, 32 and 33 of the HDPF. These policies seek, amongst other matters, development to maintain the District's unique rural character and to protect the countryside against inappropriate

development whilst ensuring that the needs of the community are met through sustainable growth. This reflects the aims of the National Planning Policy Framework (the Framework) that supports the conservation and enhancement of the natural environment.

Location

11. Policy 23 (b) and (d) of the HDPF requires gypsy and traveller accommodation sites to be served by a safe and convenient vehicular and pedestrian access and be located within a reasonable distance of a range of local services and community facilities. The PPTS indicates that one of the Government's aims in respect of traveller sites is to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment facilities. Whilst there would be no pedestrian access that would link the site to settlements, the appeal site is located not far from a range of local services and community facilities that would be within convenient reach by vehicle. The County Council Highways has not raised an objection to the proposal. I do not consider the lack of pedestrian access to be so critical in this case as to warrant refusal of the proposal.
12. For these reasons, I conclude that the proposed development would represent a suitable location having regard to accessibility to services and facilities. As such, the proposal would not raise significant conflict with Policies 1, 2, 23 and 26 of the HDPF and the provisions of the Framework that seek, amongst other matters, suitable access to services and local employment.

Other Matters

13. I have been directed to two recent Council decisions, one at Oldfield Stables (Planning Ref: DC/19/1558) and the other at Kingfisher Farm (Planning Ref: DC/19/1205). The proposal at Oldfield Stables related to an extension of an existing gypsy caravan site that is grouped within existing development. The proposal at Kingfisher Farm also related to an existing gypsy caravan site. The planning permission history dating back to 2011 had established that the site was suitable for gypsy and traveller accommodation. The circumstances and considerations pertaining to both those proposals were very different to that of the proposal before me. I, therefore, consider the proposal before me can and should be considered on its own merits.
14. The appellant has suggested that the proposal would promote inclusion of communities, but I have not been directed to any examples of existing communities that would benefit from the development of this site.
15. The site can be adequately served by water supply and drainage and parking/turning could be provided within the site. This would comply with criteria set out within Policy 23 of the HDPF.

Planning Balance and Human Rights

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that determinations must be made in accordance with the development plan unless material considerations indicate otherwise.
17. The Council has confirmed that it cannot currently meet the identified backlog of unmet gypsy and traveller accommodation need or demonstrate a five-year supply of sites. Indeed, a recent report commissioned by the Council (Gypsy

and Traveller Accommodation Assessment Final Report (the GTAA) January 2020) has identified a need for 93 pitches over the Local Plan period (2019-36) for households that met the Annex 1 PPTS definition. This holds significant weight. I also acknowledge the general national need for traveller sites.

18. The appellant owns the appeal site and has put forward the site as part of the Council's accommodation assessment needs questionnaire. Although the appellant contends that he has contributed to the work in relation to the GTAA it has been pointed out that the site is not referenced or included within the final report. The Council has not provided information as to why the site has been excluded.
19. The appellant has been evicted from a temporary pitch and has moved to this site to avoid being homeless. Given the lack of suitable accommodation anywhere else in the District should this appeal fail the appellant would be homeless leaving a member of the minority groups in society in a very vulnerable position. This carries significant weight. I understand that due to recent events it has been necessary for the appellant to have established links with local health care providers. I have found the site represents a suitable location from which the occupiers could access services and facilities. As such, the appeal site's location would continue to support access to the local health care required by the appellant. This also carries significant weight.
20. Notwithstanding the above, the creation of a gypsy and traveller pitch at the site in the countryside would be harmful to the character and appearance of the countryside. There are no other considerations of sufficient weight to overcome the direction provided by the development plan. This holds substantial weight against the proposal. The proposal would not comply with Policies 2, 23, 25, 26, 31, 32 and 33 of the HDPF and, as such, the proposal would not be in accordance with the development plan. The proposal would also not comply with the provisions of the Framework. Furthermore, the PPTS indicates that new traveller site development in the open countryside that is away from existing settlement or outside areas allocated in the development plan should be very strictly limited.
21. The Government's aim is to increase the number of traveller sites in appropriate locations to address the under provision and maintain an appropriate level of supply. I sympathise with the housing circumstances the appellant finds himself facing. However, I do not consider in this case the personal housing needs of the appellant, along with the lack of available sites within the District, despite having significant weight, would clearly outweigh the substantial harm to the countryside.
22. I have considered those conditions put forward by the Council. However, none of the conditions would restrict the development of the site, therefore, they would not overcome the harm that I have identified to the countryside. If the development were to take place the harm that I have identified would arise and the suggested conditions would not obviate this.
23. I have also considered the grant of a temporary planning permission in line with the advice provided by the PPTS, noting that the site does not fall within the Green Belt or an Area of Outstanding Natural Beauty. If a local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering an application for the grant of temporary

planning permission. If the development were to take place the harm to the countryside that I have identified would arise over the duration the site would be occupied and this could be over a considerable length of time. This would be so whether the permission was made on a temporary or a temporary personal basis.

24. Dismissing this appeal would result in the appellant not having a home in which to reside. This would be an interference of the appellant's rights under Article 8 of the Human Rights Act 1998. I find that the issue of harm to the countryside is so substantial and that, in the wider public interest, it cannot be clearly outweighed by the personal circumstances of the appellant. I have considered whether a lesser requirement would overcome the harm. For those reasons give above, I have ruled out the possibility of imposing a temporary or temporary personal permission. Dismissing the appeal would be proportionate and necessary.
25. In exercising my function on behalf of a public authority I am aware of my duties under the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal involves gypsies and travellers, they have a protected characteristic for the purposes of the PSED.
26. In consciously thinking about the aims of the PSED I have had due regard for the appellant's traditional way of life and the personal circumstances relating to the wellbeing of the occupier. However, it does not follow from the PSED that the appeal should succeed.

Conclusion

27. The proposed development would conflict with the development plan when read as a whole. There would be no violation of human rights on this occasion. Having regard to all matters raised the appeal should be dismissed.

Nicola Davies

INSPECTOR