



Appeal Decision

Hearing Held on 9 March 2021

Site visit made on 16 March 2021

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th May 2021

Appeal Ref: APP/R0335/W/19/3243351

Land north of Hermitage Caravan Park, Herschel Grange, Warfield, RG42 6AS

- 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 D Reid against the decision of Bracknell Forest Borough Council.
 - The application Ref 19/00536/FUL, dated 3 June 2019, was refused by notice dated 24 July 2019.
 - The development proposed is extension to an existing caravan site.
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Decision

1. The appeal is allowed and planning permission is granted for an extension of the existing caravan park to provide for the siting of 7No. additional mobile homes with associated vehicular access and parking at Hermitage Caravan Park, Herschel Grange, Warfield, RG42 6AS in accordance with the terms of the application, Ref 19/00536/FUL, dated 3 June 2019, and the plans submitted with it, subject to the conditions included in the schedule attached to this decision letter.

Procedural matters

2. Underpinning part of the appellants case is that the relationship between the Caravan Sites and Control of Development Act 1960 (CSCDA) with Planning legislation renders the need for a detailed examination of the appeal scheme unnecessary. I have considered these representations together with those of the Council which make reference to case law¹.
3. The description of proposed development included in the application form and retained in the banner heading above, was amended by the Council, and used for consultation purposes. I am satisfied that the Council followed normal procedures, having received no reply from the appellant to their suggested change. The proposed description of development reads: 'Extension of existing caravan park to provide for the siting of 7No. additional mobile homes with associated vehicular access and parking.'
4. I received representations from the appellant in advance of and during the Hearing regarding references to the number of caravans which they regarded

¹ Esdell Parks Ltd v Hemel Hempstead Rural DC [1966] 1QB 895 (1965) and Goodwin v. Stratford upon Avon District Council (1997) 73 P.&C.R. 524

as unnecessary, running counter to recent case law² and undermines the Model Conditions for the licensing of caravan sites pursuant to the CSCDA 1960. However, the description of development used by the Council present a more accurate description for public consultation purposes than that used by the appellant and would not infringe the appellants interests re the number of caravans. Accordingly, I have determined the appeal on the basis of this description.

5. The appellant has made reference to the requirements of Section 8 of the Housing Act 1985 and the Housing and Planning Act 2016, contending that Councils, as local planning authorities are now required to include policies dedicated to the provision of new caravan homes. This is a requirement of Paragraph 61 of the National Planning Policy Framework. The absence of a policy in the Council's adopted plans in respect of this matter undermines the its case.
6. I have considered this matter together with the written and oral representations made at the Hearing by the Council. The appropriate place for the Council to integrate new policy matters such as this is during the Local Plan process. The alternative would have involved the development of supplementary planning guidance which would not have the same weight as a policy included in a new plan. For this reason, I do not accept that the Council's decision is undermined by the absence of a specific policy on this matter. The following sections deal with the adopted policies which have informed the Council's decision included both within its Core Strategy and Saved Local Plan policies.
7. A completed Section 106 Agreement has been submitted with the appeal. I make reference to this in some detail later in this letter.
8. The appellant submitted a revised layout with the appeal (14_644B_003 A). Given the degree of interest amongst interested parties in respect of the appeal and for reasons of consistency, I did not accept this on the basis of it prejudicing the Wheatcroft³ principles.
9. I understand that whilst there is a Neighbourhood Plan in preparation neither of the main parties identified any specific policies of note regarding the issues raised by this appeal. Accordingly, I give it only limited weight.
10. In advance of the Hearing the Council withdrew its fourth reason for refusal regarding flood risk.
11. Finally, for the avoidance of doubt, the appeal site is the area of land retained as a blank space on Plan No. 14_644B_002 which lies to the north of the existing caravan park and the appeal site does not embrace the whole of the area bounded by the red line.

Main Issues

12. The appeal raises several issues:

² I'm your man v Secretary of State for the Environment (1999) 77P&CR 251; R(on the application of Resul Altunkaynak) v Northampton Magistrates' Court and Kettering Borough Council (2012) EWHC 174 (Admin); Smout v Welsh Ministers (2011 EWCA Civ 1750) and Cotswold Grange Country Park LLP v Secretary of State for Communities and Local Government and Tewkesbury Borough Council 2014 EWHC 1138 (Admin) and Wall and Ors v Winchester City Council & Anor (2015) EWCA Civ 563

³ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

- The effect of the proposal on the character and appearance of the area
- The safety of highway users, and
- The recreational impact on the Thames Basin Heath's Special Protection Area
- Whether or not the Council has a 5 year housing land supply.

Reasons

Character and appearance

13. The appeal site lies on the edge of Wareham, outside the settlement boundary and to the north of an existing caravan park. The site comprises a yard, covered in hardstanding with stables and kennels on its northern edge. A set of large ornate gates allow vehicular access from Gibbins Lane, a public right of way which runs from Warfield Street along the western edge of the site leading to open countryside. Lying next to these gates is fencing with a laurel hedge. Although at the time of my site visit the ground had recently been tarmacked the main parties acknowledge that the whole site is previously developed land.
14. To its south are detached properties on Warfield Street and Herschel Grange. To the west and north of the site beyond Gibbins Lane are large detached properties with extensive gardens and paddocks. To the east of the appeal site is a small paddock which is part of a belt fields which sweep around the northern edge of Warfield.
15. The Council's primary concern in respect of this main issue is that the proposed scheme would have an urbanising effect on an area beyond the settlement boundary.
16. The Borough's Landscape Character Assessment (LCA) identifies the site as being part of a landscape character type, Binfield and Warfield Clay Farmland. However, the LCA does not identify a particular requirement for the protection of this landscape other than in respect of any historic association it may have. The appeal site does not have any historic connections and its development would not offend advice included in the LCA.
17. The LCA identifies that at a strategic level the southern part of this landscape type provides a break between the northern edge of Bracknell and rural areas. However, the context of the appeal site differs from this broad context being determined by the existing caravan site, large residential properties set in generous gardens on the eastern edge of Gibbins Lane which further north transition to a rural landscape.
18. Whilst the Council accepts that the existing caravan site has only limited impact on Gibbins Lane its case rests on the proposed scheme being an 'imposing urban development'. It is unclear why this distinction has been made. Whilst I acknowledge that the proposed scheme would be a more intense form of development for the site than as existing, this would not result in significant harm. I regard the submitted plans as largely schematic and the inclusion of landscaping in boundary treatment could still be accommodated along the site's frontage with Gibbins Lane, resulting from closure of the existing access. This would contrast positively with the boundary treatment for the existing site which comprises close boarded fencing.

19. The site's existing contribution to the landscape identified in the LCA is marginal. I acknowledge that the its location beyond the settlement boundary conflicts with Policy CS2 but given its status as previously developed land, the harm which would result from the appeal scheme on the area's landscape character would be limited. For this reason, the conflict with Saved Policies EN8, EN20 and H5 and Core Strategy Policies CS1, CS2, CS7 and CS9 would not be significant.

Parking and access

20. Underpinning this main issue the Council's reason for refusal is that the proposed layout could result in on street parking, leading to reversing movements occurring on Herschel Grange. The Council's objections relate to both the nature of the 'packed' parking layout for each caravan and the proposed width of the main access through the site onto which vehicles would have to reverse onto when leaving the site.
21. The proposed use of the appeal site would be an extension of the existing caravan site. Whilst I acknowledge the Council's concerns in respect of this matter and the advice from its Streetscene SPD⁴ these are overstated. The roads in question would not be public highway and accordingly, the standards which underpin the Council's case are not applicable. For this reason, I do not regard adherence to the Council's suggested standard road width as applicable to this site.
22. The location of the appeal site would mean that the likelihood of overspill reversing and parking manoeuvres, whilst not ideal, would be more likely to 'overspill' within the boundaries of the existing site rather than Herschel Grange. These roads are not public highway and this is a matter which could be controlled through site management.
23. The Council's adopted policies M9 requires adherence to parking standards and Policy CS23 identifies the importance of safe travel. Although the proposed parking layout would not adhere to the Council's adopted parking standards the level of harm resulting would not seriously compromise highway safety.
24. For the above reasons, I conclude that the proposed layout is unlikely to result in overspill parking and extraneous movements on Herschel Grange. The proposal would not conflict with Policies M9 of the Local Plan and Policy CS23 of the Core Strategy.

Thames Basin Heaths SPA

25. In 2018, the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage⁵. This responsibility now falls to me within this appeal.
26. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of European sites either alone or in combination with other plans or projects.

⁴ Supplementary Planning Document

⁵ People Over Wind and Peter Sweetman v Collite Teoranta ECJ (2018) C-323/17

27. The Thames Basin Heaths Special Protection Area (SPA) comprises a network of heathlands which together provide habitat for internationally important bird species including Dartford warbler, woodlark and nightjar. The appeal site lies within the Zone of Influence of the SPA as set in the Council's adopted SPD.
28. This area is used for public recreation and there was no dispute between the parties that it cannot be ruled out that the proposal, when considered alone or in combination with other schemes, would have likely significant effects on the aforementioned qualifying features of the SPA (due to the increased recreational use. The appeal site lies within 5km from the SPA.
29. After carefully reviewing the evidence, I agree that this would be the case and therefore it is incumbent upon me to undertake an Appropriate Assessment. As part of this process, I may consider any conditions or other restrictions which could secure mitigation of this harm, and which would therefore allow development to proceed in the knowledge that the conservation objectives of this site would not be compromised.
30. Natural England and the Council have indicated that there is an agreed strategic solution to mitigate the effects of the proposal, in the form of Strategic Access Management Monitoring Measures (SAMMS). This strategy requires financial contributions from developments and allocates detailed and costed infrastructure and non-infrastructure projects to proposals dependent on their scale and location.
31. The main parties agree that the mitigation can be delivered via the appellant entering into an agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (the Act). The appellant has supplied a completed agreement with all requisite signatories upon it which addresses the additional dwellings which the new scheme includes.
32. The Council's Policies including NRM6 of the South East Plan, Policy CS9 of the Core Strategy and Policy EN3 of the Local Plan seeks to enhance the integrity of the Thames Basin Heaths SPA through the application of the SAMMS.
33. The Agreement, submitted with the appeal, through the provision of financial contributions, would therefore serve to mitigate for the recreational impacts arising from the proposed 7 additional dwellings.
34. On this basis, I am able to conclude that the required mitigation would be properly secured through the requirements of Schedule 1, of the Agreement and accordingly, that the proposals would not have an adverse effect on the identified SPA either alone or in combination with other projects.

Housing Land Supply

35. The difference between the parties is 5.2 years and 4.8 years supply. The balance of evidence presented, leans towards the Council's position given that each of the 3 disputed sites is a site allocation benefitting from outline permissions, large areas of which benefit from approved reserved matters. In line with the Framework, I have only to be satisfied that there is a reasonable prospect of these sites being developed within 5 years.
36. However, housing supply is dynamic and this has reduced from 6.02 years in 2019 to the current situation and either way the addition of 7 units would not be significant.

Other Matters

37. A completed legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) has been included with the appeal. This allows for contributions in line with the Council's Policies including NRM6 of the South East Plan, Policy CS9 of the Core Strategy and Policy EN3 of the Local Plan requiring protection of the integrity of the Thames Basin Heaths SPA through the application of the SAMMS. This was accompanied by a CIL compliance schedule which confirm that the contributions are in line with adopted policy.
38. I am satisfied that the obligations included in the agreement are related to the requirements of development plan policies and are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme in line with paragraph 56 of the National Planning Policy Framework 2019.

Interested parties

39. Interested parties raised several issues which I address below.
40. At heart of many of the objections is its recent planning history. In summary, around 2012, the site was cleared of trees and despite a 're-stocking' notice served by the Forestry Commission in 2015 this was not enforced and in turn this lapsed.
41. Subsequently, around the same time stables and kennels were erected and a yard area created with a new access from Gibbins Lane. A retrospective application for planning permission was refused but enforcement action was not taken by the Council, with the result that this development became immune from enforcement action.
42. The site is now identified as previously developed land; it is not protected countryside. I regard this as the starting point for this application despite the changes which have occurred during the last decade.
43. Many of the objections are concerned with the access to the site which would run through Herschel Grange. However, the Council has not raised the issue of additional traffic on the capacity of this road and only with the potential difficulties of manoeuvring which could spill over into Herschel Grange. I have addressed this matter above.
44. Whilst the Grange may be a short road, the amount of traffic generation created by the appeal scheme would not be excessive and could be accommodated on the road. For this reason, the amount of traffic generated would not affect the safety of users of Warfield Street.
45. The 2 neighbouring sites on which an appeal for 50 houses was allowed (now expired) and on which a resolution to grant permission for 33 houses was subsequently withdrawn differ from the appeal scheme in that they are open countryside. However, the appeal site is previously developed land. I have explained in the preceding section of this decision why I consider that its development would not result in harm to the area's character and appearance.
46. No evidence is before me on the site's biodiversity although I recognise the potential impacts of new development on the strategic purpose of the Thames Basin SPA which I have addressed above.

47. Although, the Grade II listed Warfield House lies to the east of the appeal site, it is located sufficiently far away to ensure that development would not affect the integrity of its setting.
48. Although the Council may have a 5.2 year supply of housing, the additional of just 7 units, is a marginal amount but would help maintain the delivery of the Government's target of 300,000 new units annually.

Planning balance and conclusions

49. Whilst both parties referenced recent decisions of my Inspector colleagues on this topic, which in many instances identified the same policies under consideration in this appeal, I am not bound by their conclusions.
50. The policies on which the Council relies were adopted before the National Planning Policy Framework (the Framework) was adopted, Paragraph 213 states that existing policies should not be considered out of date simply because the plan pre-dates the Framework. Due weight should be given to relevant policies according to their degree of consistency with it.
51. The Council consider that those used in the decision letter were most important whereas the appellant considered that policies CS9 and EN8 are most important. I consider each below.
52. Policy CS1 sets out the principles underpinning sustainable development for the Core Strategy. I regard this policy as broadly consistent with Paragraphs 7, 8 and 11 of the Framework requiring patterns of growth which allow a choice of transport to access services. However, the inclusion of (viii) which seeks to protect local landscapes and the wider countryside for its own sake offends Paragraph 170 which requires a more nuanced approach to this matter. I accord this policy moderate weight.
53. Policy CS2 includes a series of locational principles for development. These are consistent with the Framework and in particular with Paragraphs 15, 103, 104, 117 and 119 which require a plan led approach in supporting the right conditions for new development. As the Policy is predicated on development within settlement boundaries which no longer reflect its housing figures, I accord it only limited weight. However, I do not accept the appellants arguments that this is not relevant because it is about land allocation.
54. Policy CS7 sets out guiding principles for development. Both in tone and content which reference, amongst other matters, the need to respect local character and enhancement of landscape, ensuring permeability they identify closely with those policies included in Paragraph 127 of the Framework and accordingly I accord this significant weight.
55. The essential thrust of Policy CS9 runs counter to the principles of the Framework as it seeks to protect defined gaps between settlements which could adversely impact on the character appearance or function of land. Again, the form of this policy which doesn't distinguish between valued landscapes and others landscape types, runs counter to the approach included in Paragraph 170 of the Framework. The Policy identifies only partially with Paragraph 170b). The Council acknowledge the limitations of this policy with respect to the Framework. For these reasons I give this policy limited weight.

56. Policy Saved Policy EN8 would resist new development in the countryside. Its exceptions, reflect closely those included in Paragraphs 145 and 146 of the Framework in respect of development in the Green Belt and not the nuances included in Paragraph 170. As the intent of this policy is at variance with the intent of the Framework, I accord it limited weight.
57. Policy EN20, includes a broad range of criteria against which development proposals will be assessed, which include impacts on the amenity of surrounding properties and identification with local character. In these respects, the policy identifies closely with Paragraph 127 of the Framework which seeks to promote good design. I give this policy significant weight.
58. Saved Policy H5 identifies with Paragraph 170 of the Framework in it recognises that outside settlement boundaries the erection of a single dwelling would be acceptable. However, this is far narrower in supporting development of a single dwelling rather than 'housing'. For this reason, it does not adequately reflect the Framework and has only limited weight.
59. I have considered Policy EN9 which seeks to control changes of use of buildings outside the Green Belt. Given that this refers to existing buildings and not land I accord it only limited weight in respect of the issues raised by this appeal.
60. Policy CS23 and M9 require the Council to address a range of matters including to increase the safety of road travel and require new development to have satisfactory parking provision. These policies identify broadly with the Transport section of the Framework.
61. Finally, both policies EN3 and CS14 seek to protect Special Protection Areas and Special Areas of Conservation from the effect of development. These identify the extant policy, NRM6 of the South East Plan. I consider that these identify closely with Paragraphs 174 – 177 of the Framework aimed at safeguarding and enhancing areas of rich biodiversity.
62. At the heart of this appeal is a decision on the suitability of the proposals for the appeal site; an issue of principle. This is addressed in the policies included in the Council's first reason for refusal. These include Saved Policies EN8, EN20, H5 and CS1, CS2, CS7 and CS9 of the Core Strategy 2013.
63. For this reason, I consider that these are the most important policies and when taken in the round, I regard them as out of date given that they are either predicated on a settlement policy which no longer reflects the Council's housing target or seek to protect the countryside for its own sake. For these reasons, and in line with Paragraph 11d) and Footnote 7 of the Framework the 'tilted balance' is engaged.
64. The level of harm arising from the appeal scheme on the character and appearance of the area would not be significant. Given the weight I accord the policies in respect of the Council's first reason for refusal, I accord only limited weight to their conflict with the appeal scheme. I do not consider that the proposals would result in conflict with policies CS23 and M9 with regard to highway safety. Finally, the appellants have submitted a completed Section 106 agreement in respect of contributions to the SAC which overcomes the Council's third reason for refusal. For these reasons, the appeal is allowed and planning permission is granted.

Conditions

65. The appellant made comments during the Hearing and in written submissions in respect of the Council's suggested conditions which they consider duplicate those covered by the 'Model Conditions' required for the licensing of the site. This underpins their point referred to in procedural matters in respect of the Esdell Park case referenced under footnote 1.
66. I acknowledge that there may be some areas where this occurs but the appellant applied for full planning permission and this is a planning appeal and I draw support from the more recent Goodwin case identified by the Council. Accordingly, my decision to allow this appeal and grant planning permission is made subject to the conditions included in the schedule.
67. I have included a condition in respect of time for commencement of the works, a plan reference, and the number of caravans allowed in the area of the extension for reasons of certainty. I have not included a condition as suggested by the Council regarding 'extensions' as I consider that these could render them beyond the definition of caravan as required by the site licensing under the CSCDA 1960. This would be a matter for site management.
68. Given the crux of the Council's case I have included conditions in respect of levels, landscaping, boundary treatment and the closure of the existing access to Gibbins Lane and gates to the existing site given that the site is slightly higher than Gibbins Lane and that the proposed scheme can be adequately landscaped to ensure its impact is limited on the character of the surrounding area.
69. I have imposed a condition in respect of the detail of the access road and parking as the road will be the central part of the scheme and determine its layout in terms of movement and highway safety around it and in relation to the existing site.
70. Finally, given the extent of hardstanding across the site and that new connections will be required to mains services, I have imposed conditions in respect of surface water, the requirement for a sustainable urban drainage and drainage strategy.

Stephen Wilkinson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, received by the Local Planning Authority on 3rd June 2019: 14-644B-001 Location Plan and 14-644B - 002.
- 3) No more than 7No. mobile homes (according with the definition of a Caravan) shall be located on the appeal site at any one time.
- 4) No mobile home within the extension to the mobile home park shall be occupied for the first time until a scheme depicting hard and soft landscaping and biodiversity enhancements has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a 3 year post planting maintenance schedule. All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved scheme, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development or prior to the occupation of any part of the approved development, whichever is sooner. All hard landscaping works shall be carried and completed prior to the occupation of any part of the approved development. As a minimum, the quality of all hard and soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications for Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.
- 5) The extension to the mobile home park shall not be begun until details showing the finished floor levels of the bases of the mobile homes hereby approved in relation to a fixed datum int have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) No mobile homes within the extended mobile home park shall be occupied until details of a scheme of walls, fences, gates and any other means of enclosure has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full for each mobile home approved in this permission before its occupation.
- 7) No mobile home within the extended mobile home park shall be occupied until the internal access road which provides access to the mobile homes has been constructed in accordance with details submitted to and

- approved in writing by the Local Planning Authority. The access road shall thereafter be constructed in accordance with the approved details.
- 8) No mobile home within the extended mobile home park shall be occupied until the existing access to the site onto Gibbins Lane is closed and the verge and a boundary fence are reinstated in accordance with details which have been submitted to and approved in writing by the Local Planning Authority; the reinstatement shall be retained thereafter.
 - 9) No mobile home within the extended mobile home park shall be occupied until space has been provided for two parking spaces for each mobile home, with sufficient turning space to access the parking spaces from the internal access road. This space shall thereafter be kept available for parking at all times.
 - 10) Development within the extended mobile home park shall not commence until a drainage strategy included any on and off-site drainage works, along with proposed points of connection, has been submitted to and approved by the Local Planning Authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
 - 11) No gates shall be provided at the primary vehicular access to the caravan park site from Herschel Grange.
 - 12) No building or use hereby permitted within the extended mobile home park shall be occupied or the use commenced until the sustainable urban drainage scheme for this site has been completed in accordance with the submitted details. The sustainable urban drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan. Written confirmation of agreements for the management and maintenance of the drainage scheme shall be submitted and approved by the local planning authority.

APPEARANCES

FOR THE APPELLANT:

Mr Philip Robson	Of Counsel
Mr Matthew Green,	Director Green Planning Studios
Miss Frances Kirkham	Green Planning Studio, Observer
Mr David Reed	Reed Homes, Observer

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Katie Andrews, BA (Hons) PgDip MRTPI	Senior Planning Officer,
Mrs Natalie Hurd BSc (Hons) MSc, MRTPI	Principle Planning Officer
Mr Andy Wells, MRes, PgDip, TPP, CTPP	Senior Development Management, Engineer
Inderjit Bhatti	Senior Assistant Lawyer - Planning
Martina Mackin	Technical Clerk, Observer
Sandra Chapman	Technical Officer, Observer
Jo Male	Planning Team Manager, Observer
Mr Trevor Yerworth	Observer

INTERESTED PERSONS:

Kathryn O'Neal	
Mr Wesley McCarthy	Observer
Mr Thomas Rumble	Observer
Mr James Summer	Observer
Colleen Dulieu	Observer