



Appeal Decision

Hearing Held on 20 July 2021

Site visit made on 20 July 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2021

Appeal Ref: APP/X0360/W/19/3241996

Woodside Caravan Site, Blagrove Lane, Wokingham, RG41 4BA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Messrs B and C Maughan and Ms C Maughan against Wokingham Borough Council.
- The application Ref. 192128 is dated 09 August 2019.
- The application sought planning permission for the change of use of the land for the siting of caravans for residential purposes including the creation of a new access and hard surfacing, as modified by the subsequent permission 181694, without complying with conditions attached to planning permission Ref. APP/X0360/C/15/3085493 granted on appeal.
- The condition in dispute is No.1 (as corrected and modified by 1816940) which states: The use hereby permitted shall be carried out only by (1) Mr Bobby and Mrs Lettie Maughan and their resident dependants, and (2) Ms Caroline Maughan and her resident dependants and Eileen Casey and (3) Mary and Martin Maughan and their resident dependants and shall be for a limited period being the period of two years from the date of Appeal Decision APP/X0360/C/15/5085493 (dated 15 January 2018) When the premises cease to be occupied by those named people, or at the end of two years, whichever shall occur first, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
- The reason given for the imposition of the condition as corrected by the Council is: In granting this permission the local planning authority has had regard to the special circumstances of the case and the needs of the appellants.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of the land for the siting of caravans for residential purposes including the creation of a new access and hard surfacing, (as modified by the subsequent permission 181694), in accordance with the application Ref. 192128, dated 09 August 2019, without compliance with condition No.1 imposed on appeal decision APP/X0360/C/15/3085493 and subject to the conditions set out in the attached Schedule.

Preliminary and procedural matters

2. The Hearing was scheduled to be a 'face to face' event. A local councillor had notified the Inspectorate to say that she wished to attend and give evidence but the day before the event she advised that she needed to self-isolate at home. Although it was not possible for the person to attend the hearing 'virtually', she was given the opportunity to make further written representations on the appeal, which she did, and I have taken these into consideration, together with the written representations made by another member of the public who had to leave the hearing early.
3. The application is to vary condition No.1 in so far as it limits the permission granted on appeal (3085493) to a period of two years from the 15 January 2018. The appellants seek either a further temporary permission or permission on a permanent basis. The appellants confirmed that permission is no longer sought to vary the personal restriction imposed in this condition. Although the Council was not able to make a formal decision on the application following the lodging of the appeal, the Council confirmed at the Hearing that it had resolved that a further 2 year permission should be granted primarily to give the appellants time to move to an alternative site.

Main Issues

4. In appeal 3085493, the Inspector concluded that the use of the land for the stationing of caravans for residential purposes and the construction of an access and hard surfacing, as set out in the enforcement notice the subject of that appeal, caused substantial harm to the character and appearance of the surrounding area which was not outweighed by other considerations in relation to a permanent planning permission. However, the site occupiers' pressing personal need for a site and the lack of available alternative sites, justified a temporary permission taking into account personal circumstances and the interests of the children living on the site at that time.
5. With that background the main issues in this appeal are:
 - The accord with the development strategy in the development plan;
 - The effect on the character and appearance of the area;
 - Whether the Council can demonstrate a five year supply of gypsy and traveller sites;
 - The availability of alternative sites, and
 - The personal circumstances of the appellants and the children living on the site.

Reasons

Background

6. The appeal site lies on the western side of Blagrove Lane opposite residential properties and at the lower end of land that rises up to new residential development on a brown field site known originally as The Folly. The land in between the appeal site and The Folly is an area of landscaped open space to which the public have a right of access. There are open fields on land to the

south and west of the appeal site together with an electricity pylon on the side of the site and transmission lines go over a corner of it.

7. The appeal site is generally rectangular in shape with a gated access to Blagrove Lane and at the time of the visit comprised three pitches each with a static caravan and a touring caravan. One pitch had a small dayroom; another a small utility room building, and the other had a large wooden play structure for children. Each pitch is hard surfaced in block paving and the access drive is finished in stone chippings and enclosed by timber post and rail fencing. At the time of the visit, the site had a tidy and well managed appearance.

Accord with development strategy and national policy

8. The development plan includes the Council's Core Strategy (2010) (CS) and the Managing Development Delivery Local Plan (2014) (MDD). The Council is at an early stage of preparing a Local Plan Update which will be referred to later.
9. The relevant policies referred to by the previous Inspector, and that he found the residential caravan site to conflict with, remain in place. Policies CP1 and CP3 are general policies while CS Policy CP11 relates to development outside of development limits. In this case the settlement boundary of Wokingham is drawn along Blagrove Lane and so the appeal site has to be considered as being in the countryside. The policy states that new development outside of development limits will not normally be permitted except where stated criteria are met and these do not include land to be used as a residential caravan site.
10. The policy most specific to the appeal scheme is MDD TB10 regarding traveller sites. This indicates that permission may be granted for such sites where specific criteria are met. The Council accepts that the site lies adjacent to a settlement as per criterion (a) and that the other 7 criteria of the policy are met or are not relevant with the exception of (e). In this criterion, development is not acceptable where it would have an unacceptable impact on the character and appearance of the surrounding landscape. This will be assessed in the next issue.
11. Mrs Heine for the appellants also refers to Policy CP2 on Inclusive Communities which indicates in part (d) that where there are specific identified needs for sites for gypsies and travellers (as well as others as defined) planning permission will be granted for sites within or close to defined settlements and where the proposed site is not disproportionate to the scale of settlement. The Council confirms and I agree that the appeal caravan site is not in conflict with this policy.
12. In terms of national guidance the Planning Policy for Traveller Sites (PPTS) indicates in Policy H (para. 25) that sites in open countryside and away from settlements should be very strictly limited. However, this site is not in open countryside as it adjoins the settlement limit and the main parties agree that the scale of the caravan site does not dominate the settled community or put undue pressure on local infrastructure. I find that the appeal development is not in conflict with the general guidance in the PPTS.

Effect on landscape character and appearance

13. The appeal site does not lie in an area with any special landscape designation. The northern and southern boundaries of the site are generally enclosed by hedges and mature trees other than when crossed by the transmission line and

pylon, although the land to west, also in the appellant's ownership, is generally open. To the east there is a strong belt of landscaping in the form of trees and hedges along the frontage with Blagrove Lane which also has a line of fence panels within the site which screen views below the canopy of the trees. There is a short gap in the landscaping where the access to the site is formed but views here of the site beyond are limited by the solid gates erected back from the highway.

14. I looked at the appeal site from the land to the west, from Blagrove Lane and from the public open space to the north leading up to new development (Folly Court). Looked at from different points around this latter space, the boundary trees and hedges on the appeal site together with clumps of new planting on the open space largely screen the caravans in views.
15. At the site visit I found that the caravans and ancillary aspects on the appeal site were well screened and the visual impact of the caravans in the wider landscape is now very limited. I have taken account of the fact that in winter months the deciduous trees in the boundary landscaping, particularly the oaks, will provide less screening but it appeared to me that many of the existing tall trees along the Blagrove Lane frontage are conifers and their screening effect is unlikely to change in the seasons or in the medium term.
16. This finding has to be looked at in comparison with the previous Inspector's conclusions. He said that the development would unacceptably extend out into the countryside; would not be of an appropriate character; and would cause substantial harm to the character and appearance of the area. The Inspector's site visit was undertaken in early autumn when the trees would be likely to be in a similar state as now in mid-summer. However, it appears to me that the main differences in the circumstances of the site in the intervening (almost) four years are the fence screening below the tree canopy; the visual enclosure of the access with solid gates; and the degree to which the extensive landscaping on the public open space has grown up. These changes appear to have materially changed the visual impact of the development in the landscape and especially the relationship with the public realm around Blagrove Lane.
17. I conclude on this issue that while in spatial terms the appeal caravan site use and paraphernalia is a physical encroachment into the countryside, which conflicts with policy CP11, I find that the visual impact on the wider countryside, especially as seen from the public realm, to be limited, and that the site as developed does not harm the character and appearance of the surrounding landscape in relation to criteria (e) of Policy TB10.

Identified GTAA need and site supply

18. The national Planning Policy for Traveller Sites (PPTS) requires Councils to identify and annually update a five year supply of deliverable sites set against a local target. Evidence for this is usually obtained through a gypsy and traveller accommodation assessment (GTAA) and the Council's evidence is based on the 2017 one produced by Arc4.
19. For this case the Council provided an Updated Note on the supply position as at 31 March 2021 based on GTAA. This Update indicated that the assessed need (for people that meet the PPTS definition) for new pitches in the 5 year period 2021/22 to 2025/26 as 7 pitches whereas the Council report that as at the 31 March 2021 there was planning permission for 11 pitches not yet implemented.

This level of supply exceeds the 5 year requirement. Moreover, the Council also tabled a further permission¹ for three additional pitches at Honeysuckle Lodge at Barkham which has the potential to increase the supply.

20. The list of outstanding permissions is not disputed by the appellants but Mrs Heine submits a lengthy rebuttal of the assessment of (PPTS) defined need and the survey process of the GTAA which has not been subject to scrutiny within the plan making process. Moreover, she points out that although the GTAA indicated a five year (PPTS) need to be for 7 pitches, there were in 2017 at least 18 pitches on unauthorised sites and two on sites with only a temporary consent.
21. It therefore appears to me that while the five year supply is being met in theory, there is evidence of a significant unmet need on the ground which is not being met through the grant of permissions or through any allocations in the current development plan.

The availability of alternative sites

22. The previous inspector allowed the appeal in part to allow alternative sites to become available as anticipated by the Council.
23. The appellants have looked for an alternative site. One family say that they had their names down for pitches at Tyford but have never been offered a pitch there and the other appellants say that there are no public sites available elsewhere. There is evidence of the appellant's approaches to other private site owners but nothing is said to be available.
24. The Council refers to the various permissions granted, as listed in the supply mentioned in paragraph 17 above, but these appear to be for private pitches as applied for by the families themselves and especially where there is a need for subdivision of an existing pitch to accommodate family needs. Moreover, there appears to be cultural differences whereby it would be difficult for the families of different gypsy and traveller groups to mix. In this regard the appellant's tabled letters from Mr Lee at Nine Mile Ride which says that pitches at this site are not available to the appellants.
25. In terms of the provision of new pitches through the planning system the current development plan does not make allocations and relies on the provision through the development management process. The Council officers suggested that the Local Plan Update would make provision for new sites, possibly through strategic housing sites allocation, but the earliest that this plan is likely to be adopted is about the end of 2023. Mrs Heine said even if that timescale was achieved, in practical terms new sites developed through a strategic allocation would be unlikely to come forward for 9-10 years.
26. In summary, the appellants have not been able to secure an alternative site, there has not been any availability on public sites and the private sites allowed by the Council tended to be required by the people who applied for them to accommodate their own kin groups. There is also likely to be a considerable delay in sites becoming available through the local plan process. On this basis I have concluded that it is unlikely that there would be solution for the appellants to relocate to a lawful site in the short to medium term.

¹ 203626 Granted 28 June 2021 regarding Honeysuckle Lodge, Barkham, Woking for Messrs Wand S Price.

27. Ms Maughan said that if the appeal is not allowed on either a further temporary or permanent basis, and the families are required to vacate the site, they would have no alternative but to live on the roadside. This is a factor to which I attribute significant weight.

Personal circumstances

28. At my request, the appellants provided a form of family tree of the people living on the site. There are three related households who have suffered tragedy and seek to stay together for mutual support and reinforce a traditional traveller way of life. Members of the family have various health issues, but the appeal site does not affect these other than to provide a stable base and address so as to access relevant services.
29. There are 18 children living on site of whom 13 are of school age. Some have home schooling but the majority attend local schools depending on their age and needs. The site provides a stable base from where they can continue their educational and social development. In sharp contrast, this would be very disrupted by living on the roadside. This is a factor to which I afford substantial weight.

Planning balance

30. At the onset of considering the aspects in the planning balance I have borne in mind the requirements of the Public Sector Equality Duty and placed no single factor above the best interest of any child. Further, as the proposal seeks to vary a condition on a previous permission the base of the assessment is the factors that may have changed in the meantime.
31. The use as a caravan site is contrary to policy CS CP11 in principle as the site lies outside a settlement and defined development limit and is not one of the stated exceptions in that policy. However, the more detailed policy on traveller sites - MDD Policy TB10 states that such sites should be within or adjoin a settlement subject to criterion (e) concerning whether a proposal would have an unacceptable impact on the character and appearance of the surrounding landscape. I have found the visual impact of the site on the landscape now to be limited, particularly to the public realm, and not harmful to the character and appearance of the landscape. Therefore, the proposal does not conflict with Policy TB10. Moreover, CS Policy CP2 seeks to support sustainable and inclusive communities and part (d) of the policy accepts gypsy and traveller sites close to development limits and the main parties agree that the caravan site does not conflict with this policy.
32. Overall on the development plan I conclude that the circumstance of the site are now such that the location of the site outside but adjoining the development limits and being in the countryside is outweighed by the accord with the other relevant detailed policies. I find that the circumstances of the proposal now accord with the main provisions of the development plan when this is read as a whole.
33. On the other main issues, I have found that while on the face of it the Council can demonstrate a five year supply of new sites at the moment, there is practical evidence of an unmet need for gypsy and traveller sites on the ground. It is likely that this has contributed to the position where the appellant

families have not been able to find an alternative site that is suitable, affordable and available.

34. The personal circumstances of the appellant families are such that there is a compelling need for them to stay together and the best interests of the children would be served by them continuing to live at the settled base and continuing with their educational and social development.
35. These latter points support the accord with the development plan and this is not outweighed by the other factors raised against the caravan site.
36. The Council and some local people advise that any further permission should be for a limited period only, but such a restriction is not justified by the policy support and other factors which clearly indicate that permission should be on a permanent basis in accordance with paragraph 11(c) of the National Planning Policy Framework.

Conditions

37. In terms of conditions, as this application is in respect of condition No.1 previously imposed, I will delete the condition as either a temporary restriction or a personal restriction is not now justified. I will also correct condition 2 to refer to 3 pitches and reimpose it, in the interest of limiting the scale of the development to maintain the character and appearance of the area and so as not to dominate the settled community. Further as a special case is made for gypsy and traveller development in accordance with the specific policies in the development plan, I will impose a condition limiting the occupancy of the pitches to such people as described in the Annexe to the PPTS. Finally, I will reimpose condition No.3 on vehicle size and a restriction on commercial activities in the interests of the appearance of the area.

Conclusion

38. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs A Heine	Heine Planning
Ms C Maughan	Co-appellant
B & C Maughan	Co-appellants

FOR THE LOCAL PLANNING AUTHORITY:

G Vaughan	Principle Planning Officer Wokingham, Borough Council
J McCabe	Principle Planning Policy Officer, Wokingham Borough Council
M Bullock	Arc4

INTERESTED PERSONS:

P Bain	Local resident
M Maughan	Relative of the appellants
A Stroud	Local resident

Documents handed in at the Hearing

1. Statement of Need and alternative sites - July 21– (Mrs Heine)
2. Copy of planning permission 203626 re Honeysuckle Lodge (Council).
3. Statement from Cllr Kerr (Read out by Mr Vaughan)
4. Statement from Mr Bain (Read out by Mr Vaughan)
5. Letters from Mr Price 12 and 14 July 2021 (from Mrs Heine)

Schedule of conditions

1. There shall be no more than 3 permanent gypsy and traveller pitches provided as shown on the submitted plan. On each of the three pitches no more than two caravans, as defined in the Caravans sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which only one caravan on each pitch shall be a static caravan or mobile home.
2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
3. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site and no commercial activities shall take place on the land, including the external storage of materials or burning of waste or other material.