



Appeal Decisions

Inquiry opened on 14 September 2021

Site visit made on 14 September 2021

by Stephen Brown MA(Cantab) DipArch RIBA

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Appeal A: ref. APP/L3625/X/20/3251829

Land Parcel 1, Land North of the Junction of Cross Oak Lane and Pickett's Lane, Salfords RH1 5RG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Leslie Thompson against the decision of Reigate & Banstead Borough Council.
 - The application ref. 18/02539/CLE, dated 3 December 2018, was refused by notice dated 2 September 2019.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The certificate of lawful use or development is sought for use of the land for the siting of mobile homes over a number of years – certainly more than 10.
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Appeals B & C: refs. APP/L3625/C/19/3242913 & 3242914

Land Parcel 1, Land North of the Junction of Cross Oak Lane and Pickett's Lane, Salfords RH1 5RG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Joseph Mitchell (3242913) and Jamie Burden (3242914) against an enforcement notice issued by Reigate & Banstead Borough Council.
- The enforcement notice ref. E.01/882, was issued on 15 November 2019.
- The breach of planning control alleged in the notice is:

Without planning permission, the material change of use of the land from agricultural land within the Green Belt, to land used for the siting of touring caravans for residential occupation together with associated vehicles, machinery and equipment, hardstands, pathways and vehicle parking and the carrying out of works as part of the unauthorised change of use. (Area is outlined in red on the plan attached to the notice).

- The requirements of the notice are to:
 - i. Cease the use of the land shown outlined in red, for the siting of touring caravans for residential occupation and the associated parking of vehicles.
 - ii. Remove from the land shown outlined in red all touring caravans and associated vehicles, machinery, equipment and personal items brought onto the land in connection with the unauthorised use.
 - iii. Remove from the land shown outlined in red all hardcore, pea-shingle, new internal post and rail fencing and associated hardstand materials and restore the land to the condition it was before the change of use/breach occurred.
 - iv. Remove all associated debris from the land outlined in red.
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- The period for compliance with the requirements is 60 days.
 - The appeals are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
 - The decisions in appeals B and C supersede those issued on 23 June 2020. Those decisions on the appeals were remitted for re-hearing and determination by consent order of the High Court.
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Appeal D: ref. APP/L3625/W/20/3251850

Land Parcel 1, Land North of the Junction of Cross Oak Lane and Pickett's Lane, Salfords RH1 5RG

- 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.
 - The appeal is made by Leslie Thompson against Reigate & Banstead Borough Council.
 - The application ref. 19/02276/CU, dated 5 November 2019 was refused by notice dated 17 April 2020.
 - The development proposed is the change of use (part retrospective) of the land from agricultural use to use for the stationing of 6 no. Gypsy and Traveller pitches with associated hard and soft landscaping.
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Decisions

Appeal A: ref. APP/L3625/X/20/3251829

1. At the Inquiry the appellant formally withdrew the LDC appeal, and I have taken this matter no further.

Appeals B & C: refs. APP/L3625/C/19/3242913 & 3242914

2. At the Inquiry the Council formally withdrew the enforcement notice, and I have taken this matter no further.

Appeal D: ref. APP/L3625/W/20/3251850

3. The appeal is allowed and temporary planning permission is granted for the change of use (part retrospective) of the land from agricultural use for the stationing of 6 no. Gypsy and Traveller pitches with associated hard and soft landscaping on Land Parcel 1, Land North of the Junction of Cross Oak and Pickett's Lane, Salfords RH1 5RG in accordance with the terms of the application ref. 19/02276/CU, dated 5 November 2019 and the plans submitted with it, subject to the conditions in the schedule at Appendix A to this decision.

The Inquiry

4. Evidence at the Inquiry was taken under oath or solemn affirmation.
5. The Local Planning Authority accept that the occupants of the appeal site are ethnic gypsies for who fall within the definition in the government document *Planning Policy for Traveller Sites* of August 2015.
6. I heard evidence from the appellants' planning consultant and his landscape architect as well as from Joseph Mitchell, the former owner of the appeal site and from a member from each of five of the six families who live on the appeal

site. I also heard the evidence of Colin Smith, the Chartered Town Planner acting for the Salfords and Sidlow Parish Council.

7. When I had heard this evidence, but before hearing the Council's case the main parties reached agreement that a temporary and personal planning permission should be granted subject to a number of conditions.
8. The Council made clear that their agreement was based solely on the grounds of the personal circumstances of the families living on the site, which had been heard on the previous day, and there was no agreement or implication of any agreement on other planning issues arising in the case. While it would still be open to me to refuse planning permission, the appellant made clear that he no longer pursued a permanent planning permission.
9. The personal circumstances referred to in evidence of the five witnesses for site occupants were mainly in terms of their being unable to remain on previous sites as a result of marriage or other compelling reasons, children becoming established in local schools and in friendship groups, and continuing treatment for health problems locally for various members of the families.
10. Although I heard the appellant's evidence on planning and landscape matters, given the agreement reached between the main parties I have not gone on to consider this material.
11. I also heard the evidence of the planning consultant acting for the Salfords and Sidlow Parish Council. This was primarily on planning matters and the Parish Council's objections to the proposals. The agent confirmed in closing that the Parish Council maintained their objections and were by no means party to the agreement made.
12. Furthermore, the appellant confirmed in writing that they withdrew the LDC appeal, and the Council confirmed in writing that they withdrew the enforcement notice. On this basis I have taken no further action with regards to Appeals A, B and C.

Main Issues

13. In opening I set out the main issues before the Inquiry regarding Appeal D. Although I did not hear the Council's case, I reiterate them here for purposes of record:
 - i. The effect of the proposed development on Green Belt interests in the light of prevailing national and local planning policy.
 - ii. The effect of the proposed development on the character and appearance of the appeal site and the area in the vicinity.
 - iii. Whether any harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Conditions

14. The parties' agreement to grant of a temporary personal planning permission for the development was based upon it being subject to a number of planning conditions. I review these below.
15. A condition requiring compliance with approved plans is a necessary and effectively a standard condition and includes the requirement to comply with the other conditions imposed. Proposed conditions 2, 3 and 4 relate to the use being restricted to occupation by recognised ethnic Gypsies, to specific named individuals and their dependent relatives, and to cessation of the use at the end of the temporary period. These are necessary in the light of the reasons for granting planning permission.
16. Condition 5 is necessary and reasonable in order to limit the number of pitches on the site, and the type and number of caravans permitted to be stationed. Condition 6 - parts (i) to (vii) inclusive, sets controls on matters to be approved concerning the layout and landscaping of the site, and what must happen should those matters not be approved, or fail to be carried out.
17. Condition 7 is again necessary and reasonable in order to limit use of any day room or amenity building as ancillary to their respective pitches and caravans, and not provide any form of permanent or temporary residential accommodation.
18. Condition 8 is to prevent commercial activities, including storage of materials taking place on the site, and limits the size of vehicles that may be kept there. Condition 8 is to prevent erection of fences or barriers on the site other than the fencing to shown on the layout to be approved under Condition 6(i). I consider these to be necessary in the interests of the character and appearance of the site.

Conclusions

19. For the reasons given above I conclude that Appeal D should be allowed, subject to conditions.

Stephen Brown

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alan Masters	of Counsel, instructed by Dr Angus Murdoch
He called:	
Rhodri Crandon BA(Hons) DipLA	Landscape Architect Tirlun Design Associates Ltd.
Shelby Ball	Occupant of Plot 4
Frank James	Occupant of Plot 2
Henry Thompson	Occupant of Plot 3
Luke Thompson	Occupant of Plot 5
Larry Scott	Occupant of Plot 6
Dr Angus Murdoch BA(Hons) MA MSc PhD MRTPI	Chartered Planning Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Katherine Olley	Of Counsel, instructed by James Hitchcock Solicitor with Reigate and Banstead Borough Council.
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No witnesses were called as a result of agreement being reached between the appellants and the Council.

INTERESTED PARTIES:

Colin Smith MRTPI	Chartered Planning Consultant, Colin Smith Planning, acting for Salfords and Sidlow Parish Council.
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DOCUMENTS

- 1 Attendance lists for each Inquiry day.
- 2 The Council's letter of notification of the appeal, dated 2 June 2021.
- 3 Statement of Common Ground.
- 4 Statement of Joseph Mitchell Senior.
- 5 Statement of Shelby Ball and Colin Thompson (Plot 4) - with photographs.
- 6 Colin Smith's statement on behalf of the Parish Council.
- 7 The appellant's confirmation of withdrawal of the LDC appeal.
- 8 The Local Planning Authority's confirmation of withdrawal of the enforcement notice.
- 9 Officers' recommendations concerning applications for Gypsy sites at Axe's Lane, Salfords and Peek's Brook Lane, Horley (3 documents)
- 10 Schedule of conditions agreed between the appellant and Local Planning Authority.

PLANS

- A Planning application plan ref. 2019-077v2-PropBlock.
- B Enforcement notice plan.
- C LDC application plan ref. 19/01812/CLP.
- D Location plan of viewpoints for Mr Crandon's site photographs.
- E Map of the district identifying the appeal site location.
- F Map showing location of Peek's Brook Lane.

PHOTOGRAPHS

- 1 Photographs of appeal site from 7 viewpoints submitted with Mr Crandon's proof of evidence.
- 2 Photograph submitted by Mr Smith showing view of appeal site from the field to its north.

APPENDIX A – SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans subject to compliance with other conditions listed below:

Proposed Block Plan 2019-077v2-PropBlock
- 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) The use hereby permitted shall be carried on only by the following persons:
 - Sean and Montana Cole;
 - Frankie James and Charlotte Miller;
 - Henry Thompson and Geri-Kay Wall;
 - Leslie Thompson and Shelby Ball;
 - Luke and Rendall Thompson;
 - Larry and Noreen Scott,together with their resident dependents, and shall be for a limited period being the period of five years from the date of this decision.
- 4) When the site ceases to be occupied by those named in Condition 3 above, or at the end of five years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought onto the land, and works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
- 5) There shall be no more than 6 pitches on the site and, on each of the 6 pitches hereby approved, no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed at any time, of which only 6 caravans shall static caravans.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 60 days of the date of failure to meet anyone of the requirements set out in i) to v) below:
 - i. Within 3 months of the date of this decision, a scheme for the internal layout of the site, including the siting of caravans, plots, amenity blocks, boundary and dividing fences and gates, hardstanding, access road (including measures to remove loose gravel from the initial 5 metre depth of the access, back from the highway), amenity areas, external lighting, electricity, water, foul and surface water drainage and areas for parking and allowing vehicles to turn so they may enter and leave the site in forward gear and a scheme for the restoration of the site to its condition before the development took place, (or as otherwise agreed in writing by the Local Planning Authority) at the end of the period for which planning permission is granted for the use, shall have been submitted for the written approval of the Local Planning Authority and the schemes shall include a timetable for their implementation.

(Continued.....)

.....Conditions continued)

- ii. Within 4 months of the date of this decision, a scheme for landscaping of the site, including details of the planting densities, size, position and species of all new proposed planting together with measures to ensure the landscaping at the entrance is kept to a height of 1 metre or below at all times.

The scheme shall be carried out in the first available planting season following the determination of the detailed application and no vegetation clearance work shall be undertaken during the bird nesting season (April to September inclusive) unless the proposed works have been assessed by a competent person and a report submitted to and approved in writing by the Local Planning Authority.

- iii. If within 11 months of the date of this decision the Local Planning Authority refuse to approve either of the schemes or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iv. If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- v. The approved schemes shall have been carried out and completed in accordance with the approved timetables.
- vi. Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be maintained. If, within a period of 5 years after planting or seeding, any seeded area or tree or plant is removed, dies or becomes, in the opinion of the local planning authority seriously damaged, defective or diseased, new seed of the same variety or another tree/plant of the same species and size as that originally approved shall be sown or planted (as appropriate) at the same place, within the next sowing or planting season, unless the local planning authority gives it written consent to any variation.
- vii. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) Any day room or amenity building shall only be used for ancillary purposes to the main caravan/mobile home on the respective pitch or caravan they are associated with and intended to serve. They shall not be used to provide permanent, temporary or occasional residential overnight accommodation by any person who is a resident occupier or visitor to the pitch or site.
- 8) No commercial activities, including the storage of materials, shall take place on the land and no vehicles exceeding 3.5 tonnes in weight shall be stationed, stored or parked on site.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no other means of enclosure shall be erected within the site other than those sections of post & rail fencing shown on the scheme approved under Condition 6(i) above.

END OF CONDITIONS.