



Appeal Decision

Hearing held on 31 August 2022

Site visit made on 31 August 2022

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal Ref: APP/R3650/W/22/3297332

Land Coordinates 502393 137953, Field Adjacent to Stovolds Hill, Cranleigh.

- 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 Smith against the decision of Waverley Borough Council.
 - The application Ref 2020/1382, dated 1 September 2020, was refused by notice dated 4 January 2022.
 - The development proposed is change of use of the land from grazing to the stationing of 4 static mobiles and 4 touring caravans for one Gypsy / traveller family. Provision of entrance in SE corner of the site, and closure of existing access in SW corner. Associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It was confirmed at the hearing that the plan 2020-059v1-Day showing a plan and elevations of day rooms no longer formed part of the appellant's case.
3. A letter supporting the proposal was received after the hearing closed. The parties were given the opportunity to comment on this letter.
4. It is clear from the parties' cases that they accepted the touring caravans and static mobiles were to be used for residential purposes and I have considered the appeal on that basis.

Main Issues

5. The main issues in this appeal are:
 - a) the effect of the proposal on the character and appearance of the area;
 - b) whether the proposal, together with nearby gypsy and traveller sites, would dominate the settled community;
 - c) whether future occupiers of the proposal would be safe from flooding and whether the proposal would increase flood risk elsewhere; and
 - d) whether any harm identified, including conflict with the development plan, would be outweighed by other considerations.

Reasons

- a) *Character and appearance*

6. Located in the countryside south of Godalming, the site lies within an area defined as an Area of Great Landscape Value (AGLV). The surrounding landscape is characterised by its undulating nature, with hills, fields, and numerous trees. Buildings are scattered infrequently across the landscape, with occasional thickets of trees and larger wooded areas. The Surrey Hills Area of Outstanding Natural Beauty (AONB) boundary adjoins Dunsfold Road to the north. Within the AONB, Hascombe Hill's tree-covered slopes lie further north. South of the site, there are gypsy and traveller sites at Lydia Park, New Acres and Hilltops. New Acres and Hilltops are well screened by vegetation, while Lydia Park is significantly larger, generally lacking in trees and hedgerows, and is intensively occupied.
7. The site forms part of a large field adjacent to Dunsfold Road. The field is bounded by trees and hedging, which shields it somewhat from Dunsfold Road. On the field's north-eastern side, there is a triangular tree belt adjacent to Dunsfold Road and Stovolds Hill. The tree belt tapers to its south-eastern end, adjoining a track which runs at a right angle to the road along Stovolds Hill. This track serves other gypsy and traveller sites at or adjacent to Lydia Park to the south. Adjoining the track, there are large, mature trees and a drainage ditch. The field is separated from an adjacent field to the south-west by vegetation. Within the adjacent field, there is unauthorised hardstanding currently the subject of enforcement action. There are three gated accesses at the south-eastern and south-western corners of the site and within the tree belt along Stovolds Hill. The trees on the site, the wider field and the adjoining field are covered by a group Tree Preservation Order¹.
8. The irregularly shaped site is at the southern end of the field adjacent to the tree belt and the track. The four pitches would be arranged approximately in a quarter circle radiating out from a shared access and turning circle. A field access would be centrally located between the second and third pitch. Access would be from the south-east adjacent to the track and Stovolds Hill. Pitches would be separated by post and rail fencing with native hedging. The existing treeline along the track would be strengthened with hedging. Two stands of native trees and shrubs would be introduced at the south-eastern corner within and next to the turning circle.
9. Policy RE3 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 (LPP1) deals with new development respecting and, where appropriate, enhancing the distinctive character of the landscape. This policy refers to the AGLV and the AONB. The Council has confirmed that their concerns focus on the effect of the proposal on a presently undeveloped field and the spatial expansion of the envelope of Lydia Park, rather than on the effect on the AGLV and AONB. I have dealt with the appeal on this basis.
10. Public views of the proposal would be limited for much of the year from Dunsfold Road given the trees and vegetation enclosing the site. However, it is already possible to see parts of Lydia Park from Dunsfold Road during the Summer. It would be likely therefore that both Lydia Park and the site would be more visible when vegetation is sparser in the Winter. Even with proposed landscaping, it would also be visible from higher ground to the north and would be seen in the foreground of existing gypsy and traveller sites at Lydia Park, which can presently be seen through the trees adjoining the track.

¹ TPO 07/21, trees on land at Stovolds Hill, Dunsfold, GU6 8LE, confirmed on 22 October 2021.

11. Additionally, as it would lie beyond the track separating the field from Lydia Park, the proposal would extend the envelope of sites around Lydia Park further into the rural landscape. This would introduce an element of visual intrusion in an otherwise open field, thereby clearly encroaching on the countryside. This encroachment would be reinforced by the likely form, design and appearance of the static mobiles and touring caravans. This would cause harm to the character and appearance of the area.
12. The appellant claims that the proposal would not give rise to visual intrusion as its curved layout and native landscaping would be more suited to the rural landscape than Lydia Park. The layout and landscaping proposed would certainly be more spacious and sympathetic to local character and appearance than nearby sites viewed during my site visit. However, notwithstanding the chosen part of the field, and the different ownership, occupation, design and density of adjacent sites, the proposal and Lydia Park would inevitably be viewed together from the adjacent track or road or from higher vantage points.
13. My attention has been drawn to three recent planning permissions² for sites on Lydia Park to the south and a refusal³ of a further site to the west. The southern sites were approved by the Council on the basis that they would infill existing gaps between other gypsy and traveller sites. I saw from my site visit that there is some activity on these sites, although not all of them have been implemented in full as yet. The sites to the south would have smaller and generally rectangular pitches, with limited landscaping. While they would be likely to be more intensely occupied than the proposal due to their size and layout, their infill position to the south of the track within the established area of Lydia Park fundamentally differentiates them from the proposal before me. The site west of the proposal does not benefit from planning permission and would not alter the harm arising from the proposal.
14. The three aforementioned planning applications were granted at Lydia Park in advance of the planning application which is the subject of this appeal. The Council has confirmed that the processing of the other planning applications took between 12 and 19 months, in contrast to 16 months for this case. This does not appear to represent fast-tracking of other applications. It is not uncommon for case officers to change during the application process. I have had regard to the merits of those planning applications in the paragraph above.
15. The site is adjacent to other gypsy and traveller sites and it is not uncommon for such sites to be in rural areas, but this does not weigh in favour of the proposal and would not overcome my concerns about character and appearance.
16. I conclude that the proposal would have an unacceptable effect on the character and appearance of the area. This would conflict with LPP1 Policy RE1 and paragraph 174 of the National Planning Policy Framework (the Framework), which seek to recognise and safeguard the intrinsic character and beauty of the countryside.

b) Effect on the settled community

² WA/2020/1866; WA/2020/0551; and WA/2020/0561.

³ WA/2021/02307.

17. PPTS Policy C states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.
18. The most recent Traveller count in July 2022 found that there were 80 static caravans located close to the site, with 63 at Lydia Park, 13 at New Acres and 4 at Hilltops. Across these sites, there were 55 touring caravans in situ at that time. Alfold Parish Council has provided slightly higher figures of 109 pitches across the three existing sites. In the absence of further details on how this was calculated and given the uncertainty over how many of the extant recent permissions are now in place and occupied, I have used the data from the Traveller count as a minimum figure.
19. In the Council's view, the local settled community consists of some 20 houses in the nearby hamlet on and adjoining Stovolds Hill and at Thatched House Farm. Alfold Parish Council considers the appropriate figure to be some 21 homes. The appellant does not dispute these approximate figures.
20. The proposal would provide a home for members of the same family. Lydia Park itself is not home to a single large family group, but rather represents an amalgamation of different sites, owned and occupied by different families. However, I have found above that the proposal would be viewed as an extension to Lydia Park. It follows that the proposal would add four more pitches in this location. This would numerically increase the existing dominance of Lydia Park, New Acres and Hilltops. Spatially, the extent of land occupied would also increase, despite the site's location on the far side of Lydia Park from the settled community. This would be apparent as people travelled past the increased extent of sites along Stovolds Hill, despite proposed landscaping.
21. The Council has previously granted planning permission for sites at Lydia Park, despite acknowledging that Lydia Park and New Acres would be greater in scale than the settled community to the south. However, those planning permissions related to the infilling of sites within the envelope of Lydia Park and so their perceived impact in this regard would be minimal.
22. There are no opportunities available to the appellant for further pitches within Lydia Park. Proposed allocations within the emerging Local Plan Part 2: Site Allocations and Development Management Policies (LPP2) would extend and intensify existing sites elsewhere in the borough. This does not alter my concern about the numerical and spatial effect on the settled community.
23. Earlier appeals also addressed this matter. The appeal⁴ at Pollingford Place, Ellen's Green is not so proximate to be relevant. While the appeals⁵ on land north and west of Lydia Park are much closer, Lydia Park has seen considerable further expansion in recent years. The circumstances here differ sufficiently from the earlier appeals for me to take a different view.
24. In conclusion, the proposal, together with nearby gypsy and traveller sites, would dominate the settled community, contrary to PPTS Policy C as set out above.

⁴ APP/R3650/W/19/3230531, decision issued 27 March 2020.

⁵ APP/R3650/W/17/3169996, decision issued 4 December 2017; and APP/R3650/W/17/3180635, decision issued 13 August 2018.

c) Flood risk

25. The site is in Flood Zone 1 (land having less than 0.1% annual probability of river or sea flooding) and is under one hectare in size. This would not normally trigger the need for a site-specific Flood Risk Assessment (FRA). However, the site is located within an area of high (1 in 30 year) risk of surface water flooding. Surrey County Council in their role as the Lead Local Flood Authority (LLFA) has referred to previous flood incidents slightly downstream of the site.
26. Drainage ditches run along the site's western, eastern and southern edges and are culverted in parts. Further west, there are ponds and a stream at Thatched House Farm. The ponds are fed by springs and run-off from Hascombe Hill and they discharge excess water into the drainage ditch and a subterranean gully travelling east towards Stovolds Hill. In Spring, Autumn and Winter months, the ponds discharge consistently into this drainage ditch.
27. Amongst other things, LPP1 Policy CC4 requires a site-specific FRA for sites within or adjacent to areas at risk of surface water flooding as identified in the Strategic Flood Risk Assessment. It also confirms that there should be no increase in the volume or the rate of surface water run off leaving the site.
28. Furthermore, paragraph 167 of the Framework states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific FRA. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that a number of criteria are met. The Planning Practice Guidance on flood risk at Annex 3 describes caravans, mobile homes and park homes intended for permanent residential use as being highly vulnerable.
29. No FRA was initially provided and the application was refused on this basis. Since the refusal, the appellant produced an FRA dated March 2022. The LLFA confirmed on 4 and 12 August 2022 that it could not be assured that surface water flood risk would not be increased on and off site. A further FRA was produced in late August 2022. Although the Council and the LLFA had seen the August FRA prior to the hearing, I received it during the hearing.
30. The August FRA includes a drainage strategy which confirms that land levels would be raised across the site by 300mm and that static mobiles would sit some 600mm above modified ground level. Furthermore, regular maintenance of ordinary watercourses would be necessary to avoid exceedance. Surface water would be managed on site by the driveways, parking, and turning circle being constructed of a permeable sub-base, with water conveyed to a control chamber. The control chamber would limit surface water discharge to no more than 2 litres per second into the southern drainage ditch.
31. Given the detail set out in the August FRA, the LLFA and the Council are content that the detailed surface water drainage scheme can be dealt with by a condition requiring approval of the scheme by the Council, with subsequent implementation and retention of the approved scheme. Subject to the imposition of a condition, I am satisfied that the site's future occupiers would be safe from flooding and that flood risk would not be increased elsewhere.

32. Concluding on this main issue, I find that future occupiers of the proposal would be safe from flooding and the proposal would not increase flood risk elsewhere. Accordingly, the proposal would not conflict with LPP1 Policy CC4 and paragraph 167 of the Framework as set out above.

d) Other considerations

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. To this end, I now turn to the other considerations put forward.

Need

34. PPTS paragraph 9 requires local planning authorities to set pitch targets for gypsies and travellers who are PPTS compliant. The PPTS also confirms that local planning authorities should identify and annually update a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
35. LPP1 Policy AHN4 addresses provision for gypsies, travellers and travelling showpeople. During the hearing, it was agreed that much of the first part of the policy relates to plan-making, while the latter part of the policy sets out criteria for determining proposals for permanent or transit sites. The policy also refers to provision being made in accordance with the Waverley Traveller Accommodation Assessment.
36. The Waverley Borough Council Gypsy and Traveller Accommodation Assessment 2018 (GTAA) is supported by a more recent Waverley Interim 5-Year Traveller Accommodation Supply Position – Households that meet the Planning Definition. This document has a base date of 20 December 2021. The Council provided a verbal update at the hearing that the surplus identified in the 2021 Supply Position paper has increased slightly to a surplus of 26 pitches for 2022 – 2027 for those meeting the PPTS definition.
37. It is estimated that 64 unknown households were not able to be interviewed as part of the GTAA. The GTAA identifies a general need for unknown households rising to up to 24 additional pitches, including 8 unauthorised pitches and 16 pitches from new household formation. Applying the consultant's national average of those meeting the PPTS definition of 10% to the 24 pitches would result in a need for only two additional PPTS pitches. However, if the locally derived proportion of those meeting the PPTS definition in Waverley were to be applied (62%), it could result in a need for up to 15 additional PPTS pitches.
38. I understand that the LPP2 is presently at examination and its adoption is not anticipated before 2023. Notwithstanding the reduced weight to be afforded a plan at examination, LPP2 identifies a further 17 pitches for gypsies and travellers as extensions to or intensification of existing sites in Dunsfold, Cranleigh, Farnham, and Runfold, none of which are particularly proximate to the appeal site. This provision is proposed by the Council to maintain flexibility and provide a 5-year supply of deliverable sites, but also seeks to address the large unknown population to an extent.
39. While the appellant notes the surplus of pitches, reference has been made to an application in Wrecclesham, Farnham. The appellant contends that the

statement submitted with that application shows that the GTAA takes insufficient account for 'unknowns', of whom there are considered to be three times as many as the 26 households initially identified in the GTAA as meeting the PPTS definition. However, I only have a short excerpt of this statement and little firm evidence has been provided by the appellant. As such, I find the Council's approach to unknown households to be more compelling.

40. The appellant questioned whether the intended occupants of the aforementioned recent planning permissions at Lydia Park met the PPTS definition, but provided no substantive evidence to contradict the Council's position that those households did meet the PPTS definition. Indeed, the Council has placed PPTS conditions on all of these recent permissions.
41. Given the Council's evidence and the relative absence of evidence from the appellant, I find that the Council can identify a 5-year supply of specific deliverable sites sufficient to meet locally set targets. However, the level of need is a minimum figure and it is necessary to maintain a rolling supply of pitches. The proposal for four pitches would make a material contribution to future supply over and above the stated PPTS need. This weighs in favour of the appeal, but only to a limited extent due to the above figures.

Alternative sites

42. Other sites have been granted permission recently on Lydia Park. The LPP2, once adopted, would allocate land within the borough for sites for gypsies and travellers. However, given their location and the presence of other families on those allocated sites which would be intensified or extended, those sites would not be suitable or available alternative sites for the appellant and his family. This lack of suitable and available alternative sites provides significant weight in support of the proposal.

Personal circumstances

43. At the hearing, it was clarified that the site's intended occupants would be the appellant, his wife and their dependent children; the appellant's brother, his wife and their dependent children; the appellant's sister, her husband and their dependent children; and the appellant's grandmother. The parties agree that the adult family members set out above meet the definition of gypsies and travellers as set out in Annex 1 of the PPTS.
44. Most of the intended occupants live on two authorised pitches at Lydia Park, while one adult is presently staying with another family member elsewhere in the country, due to the lack of space on their two existing pitches. The extended family is an established part of the local community, with a number of generations having lived or presently living on Lydia Park. A number of adult family members used to attend local schools.
45. It was evident from my site visit that there is overcrowding on the two existing pitches and that the family have limited space within their static mobiles, including sleeping space. A more substantial settled base with a greater number of pitches would provide improved quality of life and stability for the family, facilitate access to health services and local facilities, and avoid the need to resort to a roadside existence.
46. One pitch would accommodate an adult in need of care and support on a regular basis given their health condition. It is my understanding that that care

would be provided by one of the other adult residents on the same site. While they appear to be being appropriately supported currently, I accept that they would benefit from having a settled base, which was not overcrowded.

47. I have regarded no other consideration as inherently more important than the best interests of the children and, prior to my assessment of their individual circumstances, none have been given greater weight. However, the best interests of the children will not always outweigh other considerations including those that impact negatively on the environment.
48. The appellant has identified that seven children would be living on three of the pitches. No specific needs were mentioned in relation to the individual children. I accept that a settled base without overcrowding could well be in their best interests in terms of their mental and physical well-being and development, engagement with their friends, and continuing stable access to local education, healthcare, and leisure facilities.
49. I give the appellant's personal circumstances and those of their family members significant weight.

Balance

50. Based on the evidence before me, there is no shortfall in deliverable sites for gypsies and travellers in the borough. However, there would be limited weight attached to the benefits of the additional pitches. I attach significant weight to the lack of alternative sites and the appellant's personal circumstances. Even if these considerations are taken together, in my opinion they do not outweigh the substantial harm I have identified by reason of the incursion into what is presently an open field and the dominating effect on the local settled community. The issue of flood risk is neutral, given my findings.
51. Neither party sought a temporary permission but it remains necessary for me to consider whether such permission would protect the public interest by a means that would interfere less with the intended occupants' human rights and thus be a more proportionate response. It is not evident that personal circumstances will change significantly in the next few years, with health and education needs likely to continue beyond that time period. The supply of PPTS pitches is positive for current and future need. As a consequence, there is little justification for a temporary permission that would cause harm to character and appearance and would dominate the settled community, even on a short-term basis, and so it would not be a necessary or proportionate response. Similarly, I have given thought to a personal permission, but the negative effects of this could be long-lasting in terms of the harms I have already identified.
52. Having had regard to all material considerations, the aim of avoiding considerable harm to the character and appearance of the area and domination of the settled community can only be adequately addressed by dismissal of the appeal. Interference with the human rights of the appellant and his family is therefore necessary and proportionate.

Other Matters

53. The Bramley Neighbourhood Plan 2017 – 2032 has been made since the application was refused. Policy BNP-E3 on dark skies and light pollution was

brought to my attention. A condition requiring provision of a lighting scheme would have addressed this matter if the appeal had been allowed.

54. While part of the field may previously have contained buildings, it was confirmed that those buildings were no longer present on site. Objections were made with regard to other matters such as Waverley's strategy for managing gypsy and traveller sites, sewerage, loss of agricultural land, and the riding of quad bikes locally. As the proposal would be unacceptable for other reasons, it is not necessary for me to reach a finding on these other matters.

Conclusion

55. Notwithstanding my conclusions in respect of flood risk, the proposal would have an unacceptable effect on the character and appearance of the area and would, together with nearby gypsy and traveller sites, dominate the settled community. It would therefore conflict with the development plan, the PPTS and the Framework when read as a whole. There are no material considerations which would outweigh the identified harm, including the conflict with the development plan.
56. For the reasons given above and having had regard to all other matters raised, including the suggested conditions, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR

Appearances

FOR THE APPELLANT:

Simon McKay	SJM Planning Limited
Bradley Smith	Appellant
James Smith	Appellant's brother

FOR THE COUNCIL:

James Kidger	Principal Planning Officer
Zac Ellwood	Head of Planning and Economic Development

INTERESTED PARTIES:

Tony Coleman	Parish Councillor, Bramley Parish Council
Kevin Deanus	Councillor, Waverley Borough Council and Surrey County Council
Rosemarie Pedder	Parish Councillor, Hascombe Parish Council
Richard Seaborne	Parish Councillor, Bramley Parish Council and Councillor, Waverley Borough Council
Sarah Sullivan	Local resident

Documents received during and after the hearing

Document 1:	Aerial photographs 2005 - 2022
Document 2:	Map of common land and rights of way network and photographs taken from public rights of way
Document 3:	Excerpt of Eastern Area Map, Local Plan Part 1, February 2018
Document 4:	Map showing distances from Lydia Park to settled community
Document 5:	Map showing distances from Lydia Park to settled community (larger scale)
Document 6:	Policy BNP-E3, Bramley Neighbourhood Plan 2017 – 2032, made on 13 January 2022
Document 7:	RSPD Flood Risk Assessment & Drainage Strategy In support of Residential Development at Land West of Junction of Dunsfold Road and Stovolds Hill, Cranleigh, Surrey, GU6 8LF, August 2022, Revision [A]
Document 8:	Letter from Kay Newnham received 2 September 2022