



Appeal Decision

Hearing held on 24 January 2023

Site visit made on 24 January 2023

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/G5180/W/21/3279166

Rosedale, Hockenden Lane, Swanley BR8 7QN

- 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 Crimea Jones against the decision of London Borough of Bromley.
 - The application Ref DC/20/02234/FULL1, dated 27 June 2020, was refused by notice dated 2 February 2021.
 - The development proposed is use of land for stationing residential caravans to provide 3 gypsy and traveller pitches with associated works (hardstanding, fencing, septic tank and landscaping).
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Decision

1. The appeal is allowed and planning permission is granted for use of land for stationing residential caravans to provide 3 gypsy and traveller pitches with associated works (hardstanding, fencing, septic tank and landscaping) at Rosedale, Hockenden Lane, Swanley BR8 7QN in accordance with the terms of the application, Ref DC/20/02234/FULL1, dated 27 June 2020 and subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs was made by Mr Crimea Jones against London Borough of Bromley. This is the subject of a separate decision.

Preliminary Matters

3. The proposed use of the site has commenced. It is being occupied by the appellant and his family. There are three static caravans on site although all works as proposed have not been implemented and the site is not laid out in accordance with the submitted proposed layout as shown on drawing numbered 01651/2 Rev 2. I have determined the appeal on the basis of the submitted plans.
4. The Council refused planning permission on two grounds. Following the submission of the appeal and supporting evidence, the Council advised that the appellant had provided sufficient evidence to address its highway safety concerns. Consequently, the Council withdrew its second reason for refusal in respect of highway safety subject to a condition being imposed to secure appropriate sightlines.
5. In addition, the Council accepted that sufficient information to justify the need for additional gypsy and traveller pitches on the appeal site had been provided.

It therefore amended its first reason for refusal from that set out in the decision notice to "The proposal by reason of increase in the number of pitches and associated development including hardstanding on the site results in an overdevelopment harmful to the amenities of neighbouring residents, including by reason of visual impact, contrary to Policies 12 and 37 of the Bromley Local Plan."

6. Although not a reason for refusal, a neighbour has raised concerns about the effect of overlooking and light intrusion, I have had regard to this in my decision.

Background and Main Issues

7. The appeal site has existing permission¹ for a single pitch. It is allocated as a Traveller Site under Policy 12 of the Bromley Local Plan 2019 (the LP). The evidence base underpinning the policy identified that the site has capacity for a further two pitches. This is not disputed by the Council. The site is inset from the Green Belt.
8. Thus, the main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to overlooking and light intrusion; and
 - if there are any material considerations which mean that the decision should be made otherwise than in accordance with the development plan.

Reasons

Character and appearance

9. The appeal site is located on the southern side of Hockenden Lane. It lies to the east of a short terrace of two-storey properties, Vinsons Cottages, and opposite a detached dwelling, Hockenden Lodge. The surrounding area is generally open and semi-rural in character with some limited linear residential development mainly fronting Hockenden Lane.
10. A high timber fence encloses the site with a section of brick wall and piers and timber entrance gates along its road frontage. A grass verge, confirmed by the appellant to be in his ownership, separates the fence from the road. There is some mature boundary vegetation and some recently planted laurel hedging growing within the verge.
11. The proposed plans show that each pitch would have one static caravan, one touring caravan and an amenity block. Each pitch would be provided with two car parking spaces with areas around this given over to lawns, landscaping and gravel surfacing.
12. Public views of the site are limited to those along Hockenden Lane and from Cookham Lane, the junction of which is opposite the site. Boundary vegetation

¹ Council Ref: DC/15/04653/FULL1

along Hockenden Lane and on the site's eastern boundary allows only glimpsed views of the site from the east.

13. At the Hearing it was explained that the neighbouring landowner had removed several trees and boundary vegetation adjacent to the western boundary of the site. I was also told that other boundary vegetation had been removed from the verge. Although no trees were removed from the site frontage, a number of them had been lopped as they were overhanging and growing too close to overhead cables. I have no reason to dispute this. As a consequence of these works, views into the site are more visible from both the road outside the site and from the west. The most prominent features in these views, as the site is currently laid out, are Unit 1, a static caravan located in the north-western corner of the site, and the entrance gates and walls.
14. Unit 1 is sited close to the boundary fence above which its shallow pitched roof, light colour walls and the upper part of its windows are visible from the street. Due to the elevated position of the site from the street, the caravan also appears slightly elevated and thus prominent. To a degree, the caravan has the appearance of a small bungalow set behind a boundary fence and hedging when viewed within the street. However, it does not relate in appearance to the more traditional form, colour or materials of buildings within the locality, thus making it a somewhat discordant feature within the streetscene.
15. Had the screening along the western boundary been in place, the appearance of the caravan would have been less stark. I was told that the siting of this caravan was informed by discussion with the Council, however, it seems that the circumstances since that time have changed. Thus, in its current position, with the boundary vegetation having been removed, the caravan is visually prominent.
16. Unit 1 is positioned slightly forward of Vinsons Cottages to the west. However, the cottages appear as a uniform terrace, entirely separate and unrelated to the appeal site, and the caravan visible within it. Furthermore, the road curves and there is a strip of land separating the cottages from the appeal site, which adds to that sense of separation. The alignment of the caravan is therefore not an aspect of the proposal that is harmful to character.
17. To address the Council's concerns, the appellant confirmed he would be willing to reposition the caravan and submit details to secure an alternative layout and any required landscaping. Having viewed the site, I am satisfied that there is adequate space to do this and such a condition would be both reasonable and necessary to secure a satisfactory form of development.
18. The site is currently entirely hard surfaced. The proposed layout shows areas of lawn and enclosure of the separate pitches within the site by domestic hedges. This would give the site a softer appearance than exists currently. Although only visible from the public viewpoints when the gates are open, it nevertheless detracts from the appearance of the site. Provided the site is laid out in the manner shown on the proposed layout, the proposal would be visually acceptable. However, given my findings above with regards to the relocation of Unit 1 and screening of this, it would be appropriate to secure these details, including a timetable for their implementation, as part of the alternative layout of the site.

19. The enclosure of the site with fencing and gates is not uncharacteristic of surrounding development, notably Hockenden Lodge which is enclosed by a high brick boundary wall. In addition, much of the boundary fence is screened from view by the vegetation along the grass verge. The gates and walls are prominent, but when viewed in the context of the enclosure to Hockenden Lodge opposite and other forms of enclosure and gates locally, they do not make the site appear unduly enclosed or deliberately isolated from the rest of the community.
20. The appeal site was already in use as a gypsy and traveller site. It had been assessed as part of the LP process as having the capacity for an additional two pitches and therefore the same quantum of development as proposed under this appeal. Within that assessment it was acknowledged that the site was visible from Hockenden Lane although it noted there is a degree of screening. Whilst I recognise that the amount of screening has reduced, given the assessed capacity for this site, I find that the development as proposed would not result in overdevelopment of the site as stated in the reason for refusal.
21. I conclude that the proposal would not harm the character and appearance of the area. It would therefore accord with Policies 12 and 37 of the LP which together require new development within allocated gypsy and traveller sites to be sensitively located and landscaped to minimise adverse impacts on the visual amenity of the site and adjoining land and to be of a high standard of design and layout.

Living conditions

22. The appeal site is opposite Hockenden Lodge. Concerns have been raised by the occupants of this dwelling about harm to their living conditions through loss of privacy, light intrusion and harm to their visual amenities. I have addressed the visual impact of the proposal in my reasoning above.
23. Hockenden Lodge faces towards the appeal site. At ground floor level it has windows facing towards the appeal site but positioned behind its boundary wall. The north facing windows to Unit 1 are visible above the boundary fence. However, they are not directly opposite Hockenden Lodge but offset from it so they face towards its garden area. With this offset position and intervening boundary walls and fences, no undue loss of privacy should be experienced by this neighbour.
24. There is evidence that there had previously been external lights at the site. However, these have been removed. The appellant has agreed that a suitably worded condition be imposed requiring any external lighting to be installed on the site to require approval by the local planning authority. I am satisfied that such measures would be appropriate to avoid any harm from light intrusion to the living conditions of this nearby neighbour.
25. I conclude that the proposal would not harm the living conditions of neighbouring occupiers, with particular regard to loss of privacy, light intrusion and visual amenities. It would therefore accord with Policies 12 and 37 of the LP which together require new gypsy and traveller sites to have no adverse effects on the residential amenity of neighbouring properties.

26. As I have found that the proposal would not conflict with the development plan, there is no need for me to consider whether other material considerations justify the proposal.

Other Matters

27. The appeal site is inset from the surrounding Green Belt. In such circumstances, Green Belt policy does not apply to the site and there is no requirement to consider whether or not the proposed development would be inappropriate development in the Green Belt nor its effect on openness of the Green Belt.
28. Concerns have been raised about the access being positioned in a dangerous location and close to a hazardous bend. The increase in vehicles and traffic associated with the proposal is suggested to result in a risk to highway safety through increased likelihood of conflict. The proposal has been considered by the Council's highway officers and, subject to the provision of suitable sightlines which would be secured through a planning condition, found to be acceptable in terms of highway safety. In the absence of firm evidence that this would not be the case, I have no reason to disagree with this.
29. The occupants of the site would be reliant on their motor vehicles. The National Planning Policy Framework (the Framework) recognises at paragraph 105 that sustainable transport solutions will vary between urban and rural areas. This appears to have been taken into account by the Council which has not disputed the sustainability of the site. I have no reason to reach a different conclusion.
30. Whilst evidence indicates that the site has been used for commercial purposes, the appellant has agreed to the imposition of a restrictive condition to prevent such activities occurring on the site. In addition, it has been suggested that site occupants utilise more vehicles than those required to reach all normal day-to-day facilities. I have no substantive evidence to confirm this. Nevertheless, the imposition of a restrictive condition that would prevent larger vehicles, such as might be associated with a commercial use, from being stored or parked on the site would be reasonable to protect the character of the area.
31. There is no substantive evidence before me to indicate that the use of the site would give rise to undue noise or disturbance from either people or dogs.
32. Whether or not the appellant has encroached into an area of land outside of his ownership and issues of land ownership are not matters before me and would not alter my consideration of the merits of the case.
33. It has been asserted that the appellant's family who occupy the three pitches are not of a nomadic habit of life and should therefore be subject to the same considerations as the settled population. However, the appellant's status has not been disputed by the Council and I have no reason to do so.
34. Whether or not the caravans on the site meet the statutory definition of a caravan as set out in section 29(1) of the Caravan Sites and Control of Development Act 1960 and section 13(1) and 13(2) of the Caravan Sites Act 1968 (as amended) is not a matter for me to determine as my decision is based on what has been applied for. Any divergence from this would be a matter for the Council.

35. The suitability of the location for this use has been questioned on the basis of the sensitivity of the location and the alleged unneighbourly behaviour of the appellant. However, the appeal site has been allocated within the LP for development of the nature proposed here. Whilst I appreciate that Government policy seeks to promote social cohesion and the integration of the gypsy and traveller community with the settled community, the issue here appears to be of a more personal nature rather than in principle.
36. The appeal site is large and appears to be adequate to accommodate three pitches and families residing on the site. Indeed, the allocation of the site in the LP with an expectation that this would be the quantum of development indicates that it would be acceptable.
37. The provision of an additional two pitches would help to meet the need for gypsies and travellers within the borough whether this is for the appellant and his family or other members of the gypsy and traveller community.

Conditions

38. The Council has suggested conditions should the appeal be allowed. These were discussed at the Hearing and it was agreed that amendments could be made along the lines discussed and as set out in a recent appeal decision² at Windsor Lodge, Windsor Road in the event I were to find that an alternative site layout and details were required. Where the conditions meet the tests set out in Paragraph 56 of the Framework, I have imposed them, amending where necessary for the sake of simplicity, clarity and precision.
39. In addition to those referred to above in relation to the layout and landscaping, control of lighting, sightlines and restrictions on commercial activities and large vehicles, a condition specifying plans is necessary to provide certainty. A condition restricting the occupancy of the site to gypsies and travellers is necessary to safeguard the supply of this site for this purpose.
40. In the interests of protecting the character and appearance of the area, a condition restricting the number of caravans on the site is necessary. A condition requiring maintenance of any planting required in relation to the landscaping of the site is necessary for the same reason. Since external lighting is addressed through the 'site development scheme', I have imposed a condition to prevent any additional external lighting being installed in the interests of protecting the living conditions of neighbouring occupiers as well as the character of the area.
41. I have not imposed a condition requiring any site restoration as a permanent permission for the use of the land is being granted and such a condition would be neither reasonable nor necessary in these circumstances.

Conclusion

42. For the reasons set out above, I conclude that the appeal should be allowed.

Rachael Pipkin

INSPECTOR

² APP/V1505/W/21/3266538

Schedule of Conditions

- 1) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following drawings: 01651/1 Rev 1, 01651/5 Rev 1, 01651/6 Rev 1, 01651/7 Rev 1, 01651/8 Rev 1, 01651/9 Rev 2, 01651/10 Rev 1, 01651/11 Rev 1 and 01651/15 Rev 1.
- 2) The site shall not be occupied by any persons other than gypsies and travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 3) No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended) (of which no more than 3 shall be static caravans) shall be stationed on the site at any time.
- 4) The use of the land 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 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme, including a proposed timetable for implementation, with details of
 1. the internal layout of the site including the extent of the residential pitches, the location of the caravans and vehicle parking, any buildings, hard standings and external lighting;
 2. all boundary treatments and all other means of enclosure (including internal subdivision) and incorporating the retention (and augmentation where necessary) of the existing planting along the site frontage;
 3. hard and soft landscaping and screen planting including details of species, plant sizes and proposed numbers and densities;(hereafter referred to as the 'site development scheme') shall be submitted to and approved in writing by the Local Planning Authority;
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or details or fail 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.
 - iii) 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.
 - iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained. 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.

- 5) At the same time as the site development scheme required by condition 4 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of the proposed planting beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
- 6) Within 3 months of the date of this decision, the sightlines shown on drawing Figure 1 in Appendix JPH-D (the Highway Statement) shall have been implemented in accordance with that drawing and retained as such thereafter.

If this requirement is not met, then the use of the site, 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 28 days of the date of failure to meet the requirement.

- 7) No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 8) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority as part of the scheme approved under Condition 4 of this permission.

End of schedule

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch	Planning Consultant
Mr Crimea Jones	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr David Bord	Principal Planning Officer
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HEARING DOCUMENTS

HD1 – Letter from Deputy Headteacher, Hextable Primary School