
Appeal Decision

Hearing Held on 31 January 2023

Site visit made on 31 January 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/J0405/W/20/3259033

Land east of Brill Road, Oakley, Bucks., HP18 9SH.

- 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 M Casey against the decision of what is now Buckingham Council.
 - The application Ref. 20/00239/APP, dated 14 January 2020, was refused by notice dated 27 March 2020.
 - The development proposed is the change of use of land to use as a residential Gypsy caravan site including erection of amenity building and screen fence.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. At the Hearing the Council confirmed that it no longer wished to pursue an objection to the proposal on highway safety grounds. Moreover, the Statement of Common Ground (SCG) sets out that the Council agrees that the appellant has demonstrated that he is a Gypsy/Traveller in the context of the Planning Policy for Traveller Sites (PPTS).
3. The planning application was considered by Aylesbury Vale District Council but following reorganisation in April 2020 this has now become part of Buckinghamshire Council.

Main Issues

4. The main issues are:
 - Whether the proposal accords with the strategy in the development plan;
 - The effect on the character and appearance of the area, particularly the rural landscape;
 - Whether the site lies in a sustainable location with reasonable accessibility;
 - The need for and supply of gypsy/traveller sites locally; and
 - Other considerations including the personal circumstances of the appellant

Reasons

Background

5. The appeal site comprises a parcel of land situated in an area of countryside about halfway between the villages of Brill and Oakley. The site is hard surfaced as permitted by the Council in 2019 and there is an access to Brill Road. There is also a small triangle of land in the appellant's ownership outside of the appeal site and this contains a dilapidated open fronted pole barn. A more detailed description of the landscape character of the area is set out in a subsequent issue. It is proposed to use the site as a single pitch residential caravan site with space for a mobile home and touring caravan together with a proposed amenity building.

Policy context

6. The development plan now includes the Vale of Aylesbury Local Plan (VALP) adopted in September 2021. This supersedes policies in the Aylesbury Vale District Local Plan as partly referred to in the reasons for refusal.
7. The most important VALP policies for the determination of the appeal are D11 concerning Gypsy and Traveller sites and NE4 about landscape character. These should be considered alongside Policy S2 on the spatial strategy for growth and Policy S6 on the need for and supply of gypsy and traveller sites.

Accord with the development strategy

8. Policy D11 is positively worded in that proposals for gypsy and traveller sites will be supported where specified criteria are met. The Council accepted that the appellant had demonstrated a personal need for a site and there was no issue with the initial part of the policy. In terms of the criteria, the Council accepts that criteria b, c, e, f, g, h and i are either met or are not relevant to the appeal scheme. Therefore the critical criteria are (a) in relation to a site's location and accessibility; and (d) regarding whether a proposed site would have a significant adverse impact on environmental assets such as the countryside and landscapes. These will be considered under the following main issues.

Accessibility of location

9. The appeal site lies in an area of countryside about midway between the hilltop village of Brill to the north and the village of Oakley to the south which mainly lies to the south of the B4011. Brill is recognised within the settlement hierarchy set out in Policy S2 as a 'medium village' as it has some provision of key services and facilities making the settlement a moderately sustainable location for development. Oakley is classed as a 'smaller village' which has relatively poor access to services and facilities but which could accommodate small scale 'windfall' development.
10. The SCG sets out that the appeal site is situated about 250 metres north of Little London/Oakley and within 1300 metres of Brill which has a primary school GP surgery, post office, convenience store, public house and church. I understand that there is public transport locally with bus stops in Brill and on the B4011.

11. While this distance of the appeal site from services and facilities is less than that mentioned in other appeal decisions put to me, I am concerned about the actual nature of Brill Road as a means of getting to local day to day facilities other than by vehicle. On the route to Brill the road is relatively steep, narrow and twisty with roadside hedges and there is limited forward visibility for drivers. Moreover, the road is unlit and with no footpaths. Similar concerns arise on the route to Oakley although here there is a footpath alongside the road from Little London towards the junction with the B4011.
12. I have taken account of the guidance in paragraph 105 of the Framework which recognises that sustainable transport solutions will vary between urban and rural areas and that moving around by vehicle is inherent in the gypsy and traveller itinerant lifestyle. Nevertheless, I find that, considered as a whole, the distances involved and the narrow and tortuous nature of Brill Road mean that it would not be safely walked or cycled particularly by the young, elderly or disabled. The location of the site would not provide reasonable access to day to day essential facilities and public transport. On this basis the appeal site has to be regarded as being materially away from any sustainable settlement and not within or close to them. The proposal therefore conflicts with criterion (a) of policy D11.
13. For similar reasons the proposal also conflicts with the guidance set out in paragraph 25 of the PPTS that planning decision should very strictly limit new traveller sites in open countryside that are away from existing settlements or areas allocated in the development plan.

Effect on character and appearance

14. The appeal site lies in an elevated rural position on the hillside leading up to Brill. The local area of countryside forms part of the Brill-Winchendon Hills Area of Attractive Landscape – a local landscape designation. Moreover the site lies on the edge and transition of two landscape character areas: one associated with Brill and Musewell Hill landscape character area formed by hills and ridges; and secondly the Bernwood Forest landscape character type, associated with the rolling lowlands landscape. It is clear that the local landscape is highly sensitive to change.
15. At the site visit I noted the roadside hedge that exists along the frontage with Brill Road. This is shown to be retained and extended together with the provision of a screen fence next to the entranceway. From the public realm of Brill Road, as seen from the north there would be some views of the proposed residential caravan site through the gateway and likely over the top of the roadside hedge. Similarly there would be some views from the south-west of the static mobile home sited behind the pole barn particularly until the proposed hedge planting becomes more established. I judge that the proposed residential caravan site would have a modest to significant adverse visual impact from the environs of Brill Road.
16. In terms of the wider impact in the landscape, the public footpaths that run to the west of the site and around Leatherslade Farm to the south-east were identified at the hearing and I considered the appeal proposal from points on these footpaths. Because of the elevated position of the site on a sloping ridge the proposed caravans would be seen from some distance away in the wider landscape depending on the local topography of the land. Views from the north-east may be restricted by the landscaping planted in the adjoining field

but as this is in the ownership of another party the screening effect given cannot be relied on in the long term. Moreover the proposal does not put forward proposals for screening on the eastern and southern boundaries of the site.

17. The Council is concerned that the static mobile home would have light coloured elevations which would stand out in the rural landscape. The elevations of the mobile home could be clad or painted in an unobtrusive colour/material and this could be required to be retained by a planning condition. Nevertheless, even with some form of mitigation I find that the presence of the caravan site and associated residential paraphernalia on this particularly prominent site would be an isolated and intrusive feature in the rural landscape and would materially alter and harm the character of the area.
18. Overall I conclude that the proposal would have a significant adverse effect on the rural landscape which is recognised to be valued albeit on a local basis. The proposal would conflict with criterion (d) of Policy D11 and the main thrust of Policy NE4 to avoid landscape intrusion, and with paragraph 174(a) of the Framework which seeks to protect and enhance valued landscapes.

Need for and supply of gypsy and traveller sites

19. On the face of it the Council is ensuring that the supply of sites for gypsies and travellers is meeting the identified local need. Policy S6 of the recently adopted VALP shows that, stemming from the 2017 GTAA, between 2016 and 2033 there was a need for eight pitches for gypsies and travellers who met the definition in the 2015 PPTS and 75 pitches for 'unknown' needs, whereas the policy goes on to identify 69 pitches from allocations and permissions granted in the first 10 years of the plan. The Council stresses that this position was considered by the VALP examination inspector and found to be sound. The position is also set out in the SCG where the main parties agree that the supply position in the local plan is sufficient to meet the identified need.
20. Since the submission of the SCG on this case, the parties have become aware of appeal decision APP/J0405/W/22/3295746 *et al*¹ which relate to 21 individual appeals involving some 64 traveller pitches at Sunset Park near Brackley in the county, as decided on the 23 December 2022.
21. In these decisions the Inspector undertakes a detailed analysis of both the need for gypsy and traveller sites and the supply of sites in Aylesbury Vale and across the county. She concludes that the GTAA has significantly underestimated the need for pitches within Aylesbury Vale and this is likely to be far greater than that identified in Policy S6. Moreover, the Inspector highlights that the GTAA assessment is based on the definition within the 2015 PPTS which the Courts have now held to be discriminatory and unlawful. If the needs of gypsies and travellers who have ceased to travel for reasons of old age or disability are counted this would add to the unmet need.
22. For these reasons Mr Brown for the appellant said he could no longer support and retain paragraph 5.11 of the SCG. He submitted that even if the 63

¹ Appeal Decisions APP/J0405/W/22/3295747, APP/J0405/W/22/3295748, APP/J0405/W/22/3295749, APP/J0405/W/22/3295750, APP/J0405/W/22/3295751, APP/J0405/W/22/3295752, APP/J0405/W/22/3295753, APP/J0405/W/22/3295754, APP/J0405/W/22/3295755, APP/J0405/W/22/3295756, APP/J0405/W/22/3295757, APP/J0405/W/22/3295758, APP/J0405/W/22/3295759, APP/J0405/W/22/3295760, APP/J0405/W/22/3295761, APP/J0405/W/22/3295762, APP/J0405/W/22/3295763, APP/J0405/W/22/3295764, APP/J0405/W/22/3295765, APP/J0405/W/22/3295766

pitches allowed at Sunset Park were added to the supply side there would still be an unmet need of some 20 pitches, and the Council could not demonstrate a five year supply of sites at the moment to meet the requirements of Policy B paragraph 10 of the PPTS.

23. The Council is still considering the implications of the *Lisa Smith* judgment and the Sunset Park decisions and indicated that it is likely that it would need to review all of the permissions that had been granted and make up the supply side and undertake a new GTAA and seek to achieve a 90% response rate of all gypsy and traveller households to be sure about the need. It is likely this would feed into a local plan review for the whole county, but this is unlikely to be adopted before 2026.
24. I have noted the Council's submission that Policy D11 relates to all gypsies and travellers without reference to the PPTS definition, but this does not alter the basic assessment on need and supply. Whilst I recognise that this is currently complex and dynamic, on the evidence put to me I conclude that despite the position found to be sound in the VALP, the Council cannot demonstrate a five year supply of gypsy and traveller sites at the moment based on all gypsy and traveller needs.

Personal circumstances

25. At the Hearing the appellant explained that he lives on his mother's pitch at Love Lane, Iver which is overcrowded. He wishes to be independent and start his own family. He is engaged and wants to get married in the next two years. He also explained his working pattern as a builder where he travels for work around the M40 and is normally away for two to three months a year. His trips tend to last about two weeks and he uses the touring caravan normally stationed on friend's sites.

Planning balance

26. On the main issues I have found that the appeal site does not lie in a sustainable location within or close to a settlement as the distances to Brill and Oakley, coupled with the tortuous and narrow nature of Brill Road with no lighting or footpaths, mean that it would not provide reasonable access to day to day facilities and public transport. Moreover the position of the site on an elevated position on the hillside means that the development proposed would have a significant adverse effect on a valued rural landscape.
27. These factors mean that the proposal does not meet criteria (a) and (d) of VALP Policy D11 and it conflicts with Policy NE4. There is also conflict with the relevant provisions of the Framework on landscape protection.
28. Although the need and supply of pitches for gypsies and travellers has been balanced in the adopted VALP more recent evidence and legal judgment affecting the calculation of need has undermined this position and I have concluded that the Council cannot demonstrate a five year supply of sites at the moment to meet the PPTS.
29. This must be balanced with the conflict with the most relevant policies in the Development Plan. However, I find that the degree of local landscape harm and the poor location of the site in accessibility terms is not outweighed by the lack of need to the extent that permission is justified on either a permanent or

temporary basis, taking account of the appellant's desire to develop his own home base.

30. I conclude that the conflict with local and national policy, and the adverse effects that arise are not outweighed by other considerations and that the appeal should not succeed.

Conclusion

31. For the reasons given above I conclude that the appeal should be dismissed.

David Murray
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr P Brown BA Planning Consultant

Mr M Casey Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms B Motuel Planner, Buckingham Council

Ms H Harding Policy Officer, Buckingham Council

Ms Unwin Landscape Architect, Buckingham Council

Ms E Brown Policy Officer, Buckingham Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Further comments from Oakley Parish Council
- 2 Email dated 26 January 2023 from Mr Steve Jarman re GTAA