



Appeal Decision

Hearing opened on 2 November 2022

Site visit made on 2 November 2022

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/R3650/W/21/3288515

Land off Tongham Road, Badshot Lea, Farnham GU10 1PH

- 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 John Searle against the decision of Waverley Borough Council.
 - The application Ref WA/2019/1021, dated 29 May 2019, was refused by notice dated 22 November 2021.
 - The development proposed is the siting of additional 3 mobile homes and the erection of additional dayroom on existing Gypsy/Traveller site.
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Decision

1. The appeal is allowed, and planning permission is granted for the use of land for the provision of 3 additional gypsy pitches together with associated works (as amended by plans received 24.09.2021) at Old Stone Yard, Tongham Road, Runfold GU10 1PH, in accordance with the terms of application, Ref WA/2019/1021, dated 29 May 2019 and subject to the conditions set out on the attached schedule.

Application for costs

2. Prior to closing the Hearing an application for costs was made by Mr John Searle, against Waverley Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. The Hearing was originally scheduled for one day. However, the judgement *Lisa Smith v SSLUHC* (2022) EWHC, was issued on 31 October. As a result, a second day was arranged for 12 December 2022, to give the parties time to consider whether this would have any material effect on their submissions. Other unrelated matters and the site visit were nevertheless heard and carried out on 2 November 2022.
4. The above description of the development is taken from the appellant's application form. It differs from that described on the Council's refusal notice which refers to 'Use of land for the provision of 3 additional gypsy pitches together with associated works (as amended by plans received 24.09.2021).' The originally proposed dayroom was removed during the course of the application and the appellant's appeal form reflects this change. The appeal has been considered on the basis of the amended plans.

5. Similarly, the address of the development on the appellant's application form is as set out above. However, the address used on the Council's decision notice refers to Old Stone Yard, Tongham Road, Runfold GU10 1PH. This provides a more accurate address and has been used by the appellant in their various appeal submissions. Accordingly, I have used this address for the appeal.
6. The agreed Statement of Common Ground (SoCG) sets out that the Council agree that the appeal site is previously developed land and that the Gypsy status of the proposed occupiers is not in dispute.
7. The parties agreed at the Hearing that the siting of the second static caravan represented a breach of planning control, albeit that no enforcement action had been taken. The appellant confirmed that if the appeal was allowed, this caravan would remain on site, but would be re-located in accordance with the submitted layout. The parties agreed that the development is therefore, in part retrospective.

Main Issues

8. I consider that the main issues are:
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on the living conditions of neighbouring occupiers, with reference to noise and disturbance and for the occupiers of the site with reference to the provision of amenity space;
 - The effect of the development on recreational disturbance; and
 - Whether any harm arising from the above matters is outweighed by any other material considerations.

Reasons

Policy background

9. Following the closure of the Hearing, the Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (LP part 2) was formally adopted by the Council on 21 March 2023. The Council have confirmed that it now supersedes the Waverley Borough Local Plan (2002), which was used for the determination the planning application. As a result of this, the site currently no longer lies within the Farnham and Aldershot Strategic Gap. Cited policies D1 and D4 have now been replaced with Policies DM1, DM4 and DM5 of the LP part 2. The appellant was copied into this correspondence, although made no additional comments

Character and appearance

10. The site is located to the east of Tongham Road. On the western side of the road there is a ribbon of residential dwellings of various sizes and designs along the length of the road. The former Animal Snack and Tack site bounds the site to the east. It has an extant planning permission for nine dwellings (WA/20/2019/0063), with their shared site access immediately to the north of the appeal site. Looking further to the north there are paddocks, then further mixed development towards the A31. There are two dwellings immediately to the south of the site.

11. The appeal site already has permission allowed on appeal in 2011, for one gypsy pitch, hardstanding and a dayroom. At the time of the site visit the site had been subdivided with a total of two static caravans and one touring caravan and the dayroom sited close to the boundary with Tongham Road. The proposal seeks to increase the number of pitches on the site from one to four. When considered in the context of its surroundings, the site appears as a fairly discrete plot of land within generally existing built development. This impression would be strengthened when considered in the context of the permitted housing scheme next door.
12. The existing shared access to the north both physically and visually sets it aside from the equestrian paddocks beyond. Moreover, the site is well screened by substantial hedging and fencing from the road and to the east by an existing earth bund. This means that there are limited views of the site from the road and surrounding land. To my mind, the existing screening could be controlled and further enhanced through a suitably worded condition.
13. Drawing the above points together, the additional residential caravans will inevitably result in some change to the character and appearance of the area. However, in my judgment, due to the enclosed nature of the site and its discrete location within the existing built environment, the additional harm to the character and appearance of the area would be limited.
14. Nonetheless, the development would be contrary to Policies TD1, RE1, and RE3 of the Waverley Borough Local Plan, Part 1, Strategic Policies and Sites (2018) (LP part 1), Policies DM4 and DM15 of the LP part 2 and Policies FNP1, FNP 10 and FNP11 of the adopted Farnham Neighbourhood Plan 2013 – 2032 (2020). In summary, these policies seek to ensure development is appropriate to the site in terms of its scale height form and appearance and to prevent harm to the visual character and distinctiveness of the locality, taking opportunities to enhance the landscape.

Living conditions

15. The Council has two main concerns. The first relates to the relationship of the proposed pitch sited in the northeast corner, to Plot 01 of the adjacent housing development with particular reference to noise and disturbance. The appellant provided a composite plan of the appeal proposal and the approved plans for the housing site at the Hearing. From this it is apparent that the relationship between Plot 01 to the closest proposed mobile home, is not dissimilar to the relationship between the approved dwellings. The Council agreed that there are no windows in the flank elevation at either first, or ground floor of Plot 01. Moreover, the flank elevation will be sited some 6 metres from the nearest mobile home, with a 1.8 metre close boarded fence along the common boundary.
16. I acknowledge that the level of insulation in a mobile home may not be as effective as in more traditional built housing. This could lead to some mutual noise and disturbance, especially in warm weather when windows are open, or from the gardens. Nonetheless, I have nothing before me to suggest that this would be any greater than that commonly experienced in many housing developments, including the adjacent approved housing. There should be no noise arising from commercial activity or large vehicles as this is prevented by conditions 7 and 8 attached to the 2011 appeal. Noise arising from any future commercial activity on the appeal site could be prevented by appropriate

- conditions. I therefore find that the appeal proposal would not cause unacceptable harm to the living conditions of the proposed occupiers of Plot 01.
17. The Council's second concern is that the proposed development fails to provide sufficient amenity space for future occupiers. Paragraph 26 of the Planning Policy for Traveller Sites (PPTS) provides that weight should be attached to the promotion of opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children. Policy DM37 of the LP part 2 sets out that unless families are sharing facilities, sites should measure at least 500m², together with space for parking, manoeuvring of vehicles, storage, play and amenity space.
 18. The appellant has drawn my attention to the Runcorn Recreation Ground which is located a short distance to the south. I took the opportunity to see this at my site visit. I had to approach it by road, as the more direct foot path was very overgrown. Despite its fairly close proximity to the site, the occupiers including any children, would have to cross the busy Guildford Road to access it on foot. Consequently, to my mind it does not represent a suitable substitute for on-site amenity space.
 19. I acknowledge that the site is relatively constrained. That said, the submitted site layout plans indicate several areas as 'amenity areas', although no specific equipped play areas have been identified. Whilst designated play areas would be desirable, it is not uncommon for play areas to be shared and be more informal on residential caravan sites.
 20. The proposed layout does not subdivide the land into separate individually fenced plots, allowing for an open, shared character to be retained. The single day room and communal areas of amenity space further demonstrate that the families would share site facilities. It is clear from the personal circumstances evidence provided by the appellant, that this is an extended family seeking to live together. As a result and in accordance with Policy DM37, I consider that their needs should be addressed individually.
 21. The current layout provides sufficient space for parking and manoeuvring of vehicles, together with some amenity space. The open nature and lack of internal fencing also provides a degree of flexibility for the occupiers to use the available space to satisfy their own requirements. Moreover, the removal of the additional dayroom has both improved the layout and increased the available undeveloped space available for amenity within the site.
 22. For the above reasons, I find that the proposal would not cause unacceptable harm to the living conditions of the occupants of nearby land, with particular reference to the proposed occupiers of Plot 01 and provides adequate shared amenity space for this extended family. Accordingly, I find no conflict with Policies AHN 4 of the LP part 1; DM1 (a), DM5 or DM37 of the LP part 2, that seek to avoid harm to the amenity of future and existing occupants.

Recreational disturbance

23. In summary, the conservation objectives for the Thames Basin Heaths Special Protection Area (TBSPA), are to maintain, in favourable condition, the habitats for the populations of bird species of European importance, with particular reference to lowland heathland and rotational forestry.

24. The Waverley Borough Council Thames Basin Heaths Special Protection Area Avoidance Strategy (July 2016), seeks to ensure that the habitat on which the bird species rely upon, is returned to good condition; and ensure that people could continue to visit the TBSPA in ways that would not damage the heathland wildlife and habitats. At distances of 400m-5km from the SPA, the Delivery Framework advises that development projects should be required to contribute toward off site provision of Suitable Alternative Natural Greenspace (SANG) and toward access management to the SPA.
25. It is not in dispute that the development has the potential to cause harm to TBSPA and that a contribution is required to mitigate against that harm. However, the figure quoted in the Council's Committee Report for the application refers to a required payment of £11,277.81, made up of £8262.21 towards (SANG) and £3015.6 towards Strategic Access Management and Monitoring (SAMM), based on each mobile having three bedrooms. In contrast the signed Unilateral Undertaking (UU) dated 2 November 2022 refers to a SAMM contribution of £2114.94, with a SPA contribution of £5793.
26. This discrepancy was raised with the parties following the Hearing. The parties confirmed that they had agreed prior to the hearing, that the UU figure would be calculated on the basis of each mobile home having no more than two bedrooms, thus, attracting a reduced contribution. This is reflected in the UU which restricts the design of the mobile homes to accommodate a maximum of two bedrooms.
27. The potential difficulties of monitoring this, in the event of a mobile home being either replaced, or subdivided internally to provide three bedrooms, was raised with the parties. In response, the Council confirmed that they are in a position to effectively monitor compliance with the terms of the UU, including a site inspection if necessary. The appellant has not raised any concerns about the Council's approach. I have no evidence before me to suggest that effective monitoring and enforcement would not be possible. The Council have confirmed that these contributions will be used in compliance with Waverley's Avoidance and Mitigation Strategy for the Thames Basin Heaths SPA. Further consultation was carried out with Natural England who have raised no concerns.
28. For the above reasons I am satisfied that the signed legal agreement would provide the appropriate mitigation contributions to the Strategic Access Management and Monitoring (SAMM). The contribution would address the potential harm to the TBSPA and can be secured and delivered. Accordingly, it is concluded that the development will not affect the integrity of the SPA, either alone or in combination with other plans and projects in relation to urbanisation and recreation.

Other considerations

29. The Council have submitted that Policy DM15 (Development in Rural Areas) and DM9 (Accessibility and Transport) are also relevant. The site sits within a cluster of other dwellings, although there are limited facilities for shops and services in the immediate area. Badshot Lea lies some 1.4 Km from the site with Farnham some 1.5 km away.
30. At the Hearing, the Council conceded that the location of the development did not form part of their reasons for refusing the application and whilst it may not be in an ideal location, this should be balanced alongside the adjacent extant

permission for housing, the existing use and the allocation of the appeal site in the local plan for an additional pitch. In view of this, they did not wish to pursue this, although they had given it some weight in the planning balance. I have no reason to come to a different view but for the same reasons give this very little weight.

31. It is agreed that unmet need is a material consideration for this appeal. Policy ANH4 of the LP sets out the framework for determining applications and follows a sequential approach setting criteria for the assessment of sites coming forward. The Gypsy and Traveller Accommodation Assessment (GTAA) was carried out in 2017. The Council confirmed that they have not carried out any annual reviews of need and to date there is no timeframe to commission an updated GTAA.
32. The Council in their written and oral evidence have provided a number of differing calculations to demonstrate that there is an oversupply of pitches in relation to the need in the Borough. The need for additional pitch provision is based on the known need in 2017 for gypsies and travellers who met the planning definition of a gypsy and traveller as set out in Annex 1 of the PPTS, together with an update to their 5-Year Traveller Accommodation Supply position provided prior to the Hearing.
33. This shows that between 2021 and 2032 the Council needs to deliver between 37 and 39 pitches. Taking the lower figure, from April 2017 to March 2022, 50 pitches were granted against a need of 26 resulting in an oversupply of 24. Between April 2020 and March 2027, the identified need was 5, with planning permission granted for 7 giving an oversupply of some 26. Therefore, it is the Council's case that the total number of pitches required between April 2021 and March 2027, has been exceeded thus they can demonstrate a 5 year supply of pitches up to 2027.
34. The LP part 2, identifies a further 15 pitches to address any unknown population up to 2032. It is proposed that these are to be accommodated on allocated existing sites. The appeal site was initially included in the allocations for an additional three pitches, although following adoption of the LP part 2 this has been revised to one additional pitch.
35. The GTAA is now rather dated, but I recognise that on the basis of the above the Council can demonstrate a 5 year supply of sites. However, it is less clear how this oversupply equates to need on the ground. The Council confirmed that there are no vacancies on the nearby Surrey County Council run site and there are no vacancies, or suitable, affordable alternatives for these families to move to, suggestive of an ongoing need for additional pitches.
36. The appellant expressed concern that through the GTAA, not all of the unmet need has been identified, including that of unknown households, new household formation and those not meeting the PPTS definition. He also drew my attention to the results of the bi-annual Gypsy Caravan Count for the period July 2018 to January 2022. Whilst a snapshot in time, this seems to indicate a generally upward trend in unauthorised pitches from 10 to 18 during this period, although I note that the number dropped in July 2021 before returning to 18. The overall number of caravans in the borough have also increased from 157 to 229 during this period.

37. It was suggested that there may be a number of pitches being occupied in breach of occupancy conditions, although the number of these and the progress of any enforcement investigations was less clear. Moreover, it is necessary to maintain a rolling supply of pitches given the likelihood of a continuing, if not increasing need. The additional 3 pitches that this appeal would provide would make a positive contribution to future supply. For these reasons, and in the circumstances of this appeal, I give moderate weight to the Council's position on need.
38. The appellant submitted a statement of personal circumstances at the Hearing. This sets out the proposed occupation of the additional pitches. The additional mobile home that has already been sited, known as pitch 2, is solely occupied by the appellant's adult son.
39. Pitch 3 would be occupied by the appellant's daughter and his granddaughter who is 2 years old. They are currently doubling up on a friend's site where such occupation is restricted. This means that she will need to move to an alternative site. She has put her name down on the sites owned by Surrey County Council and Hampshire County Council although has been advised that both lists are excessively long. Her daughter will soon be able to attend nursery prior to starting more formal education.
40. Pitch 4 would be occupied by the appellant's eldest son, his wife and two children who are two and three years old. They are temporarily doubling up on a site in Emsworth Hampshire. Prior to this they were on the road.
41. The needs of the children are a primary consideration of substantial weight, but are not necessarily determinative. However, in common with all those who travel, a settled base would enable these families to have access to medical care and education and this together with the lack of alternative sites weigh significantly in favour of the scheme.

Planning balance

42. The planning balance is finely balanced, and as set out above I have given moderate weight to the Council's position with regard to the supply of sites. I have found little harm resulting from the location of the site and limited harm to the character and appearance of the area. These are all factors that weigh against the development.
43. However, set against this is the significant harm arising from the lack of alternative sites, the personal circumstances of the proposed residents and their desire to keep their extended family together. I also acknowledge that the proposal would provide limited further social and economic benefits by providing three additional Gypsy and Traveller pitches that contribute towards the Council's targets.
44. I have found no harm to the living conditions of the future occupiers of the site, or the future residents of Plot 01 of the adjacent development. I am satisfied that the signed legal agreement would provide the appropriate mitigation contributions to the SAMM. Therefore, these represent neutral factors in the overall balance.
45. Accordingly, I find that on balance, the identified harm is outweighed by those matters advanced in support of the proposal, such that the appeal is allowed.

Other matters and conditions

46. A list of suggested conditions was provided by the Council and subject to amendments these were in principle agreed by the parties at the Hearing. Due to a nearby landfill site additional conditions requiring a scheme to assess and then remedy, any contamination found on the site had been suggested by the Council's Environmental Pollution Control Officer. This was not included in the list provided by the Council or agreed at the Hearing. Following further consultation with the parties, the Council confirmed that since the day room had been removed from the application, these conditions were no longer considered to be necessary. I have no reason to come to a different view.
47. The standard condition that limits the lifespan of the planning permission is not required due to the retrospective nature of the development. However, in the interests of highway safety condition 5 is imposed to ensure that details of improvements to vehicle visibility are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the improvements to visibility before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
48. Also in the interests of highway safety, a condition to carry out the submitted details to provide space for vehicles to park and turn are also required. To protect the living conditions of future and existing residents, conditions are required to control the size of vehicles using the site and any commercial activity are necessary.
49. I have specified the approved plans, including the re-siting of the existing caravans and a condition to control the number of caravans, as this provides certainty. It is necessary to restrict occupation of the site to Gypsy and Travellers and as permission has been granted due to the personal circumstances of these extended families, a personal condition is also required. The views of the parties were sought on this additional condition.
50. In the interests of protecting the character and appearance of the area, a landscaping scheme is required. In the interests of protecting the environment, details of the proposed bin stores, their proposed management and a scheme to provide fast-charge Electric Vehicle charging points are necessary.

Conclusion

51. I have considered all of the matters before me, but overall conclude that the proposal would not cause unacceptable harm to the character and appearance of the area, the living conditions of future occupiers of the site or Plot 01 of the adjacent development, or the TBSPA. The appeal should therefore be allowed subject to the attached schedule of conditions.

Hilary Orr

INSPECTOR

Schedule of conditions

- 1.** Within 3 months from the date of this decision the existing caravans shall be relocated in accordance with the approved plan number J003298-CD-03H - as Proposed Site Block Plan. Thereafter the remaining development shall be carried out in accordance with the approved plans: J003298-CD-03H - as Proposed Site Block Plan and J003298 - CD01 - Site Location Plan.
- 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.** The additional mobile homes hereby permitted shall be occupied only by the following and their resident dependants: Mr John Searle (Jnr) and Mrs Deanna Searle; Ms Mary Lou Searle; and Mr Levi Searle. When any of the additional mobile homes hereby permitted cease to be occupied by those named above, the caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with their occupation, shall be removed and the land shall be restored to its condition before the development took place.
- 4.** There shall be no more than four pitches on the site and on each of the 3 additional pitches hereby approved no more than two caravans, shall be stationed at any time, of which only one caravan shall be a static caravan.
- 5.** 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 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 details of improvements to vehicle visibility at the existing site access junction with Tongham Road to include visibility of 59 metres to a point 1.5 metres outwards from the western carriageway edge to the south from 2.4 metres back along the middle of the access from the carriageway edge shall have been submitted for the written approval of the Local Planning Authority after consultation with the Highway Authority. The scheme shall include a timetable for its implementation.
 - ii.** If within 12 months of the date of this decision the local planning authority refuse to approve the scheme 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 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 maintained and there

shall be no obstruction to vehicle visibility between 0.6 metres and 2.0 metres high above the ground.

v. 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.

6. Within 3 months from the date of this decision, details of the proposed bin stores and their proposed management shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be implemented and completed within 3 months following approval of those details and thereafter maintained and available for use.

7. No vehicle over 3.5t shall be stationed, parked or stored on this site.

8. No commercial activities shall take place on the land, including the storage of materials.

9. Within 3 months from the date of this decision, a detailed landscaping scheme to include hard landscaping works, gates, fences and any other means of enclosure together with the timescale for implementation shall be submitted to the Local Planning Authority in writing. All hard landscaping works, planting, seeding or turfing comprised in the approved details of landscaping shall be carried out as approved and in accordance with the implementation timetable. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

10. Within 3 months from the date of this decision, space has been laid out within the site in accordance with the approved plan, drawing no. J003298-CD-03H, for cars to be parked and vehicles to turn so that they may enter and leave the site in a forward gear. Thereafter, the parking and turning areas shall be retained and maintained for their designated purpose.

11. Within 3 months from the date of this decision the additional caravans hereby approved shall be provided with a fast-charge Electric Vehicle charging point (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

End of schedule

Appearances for both 2 November 2022 and 12 December 2022:

FOR THE APPELLANTS:

Peter Brownjohn	Agent
Brian Woods	Agent
John Searle	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ruth Dovey.	Principal Planning Officer
Dan Holmes	Senior Planning Officer

INTERESTED PERSONS:

none