



Appeal Decision

Hearing held on 17 October 2023

Site visit made on the 17 October 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2023

Appeal Ref: APP/W0530/W/23/3318910

146 Cambridge Road, Wimpole, ROYSTON, Cambridgeshire, SG8 5QB.

- 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 R Crotty and Ms L Gurling against the decision of South Cambridgeshire District Council.
 - The application Ref 22/01733/FUL, dated 11 April 2022, was refused by notice dated 22 September 2022.
 - The development proposed is the change of use of land from former builder's yard to a residential caravan site for one gypsy family including stationing of 2 caravans, hardstanding and existing amenity building (retrospective)
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from former builder's yard to a residential caravan site for one gypsy family including stationing of 2 caravans, hardstanding and existing amenity building, at 146 Cambridge Road, ROYSTON, SG8 5QB, in accordance with the terms of the application, Ref 22/01733/FUL, dated 11 April 2022, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. Although the application includes the erection of an amenity building the appellants' agent said that an existing amenity building on site had been erected more than four years ago and this was now lawful as it was immune from enforcement action. An amenity building is referred to in paragraph 11 of a previous appeal decision¹ (see paragraphs 8 and 9 below) and it is clear that the Inspector saw it at his site visit on the 17 December 2014.
3. At my site visit I noted that a small amenity building had been erected on the site. Although there is some minor difference on the position and extent of windows, otherwise the size, design and position of the dayroom areas of the building is shown on the current submitted plans. Moreover, while there is no Certificate of Lawfulness before me and I am not able to make a formal decision on this matter, the evidence submitted does appear to show that the amenity building has been there for sufficient time for it to be immune from enforcement action.

¹ APP/W0530/A/14/2221704 & APP/W0530/A/14/2217841

Policy Context

4. The development plan includes the South Cambridgeshire Local Plan adopted in 2018 (now referred to as LP). Relevant Policies within this will be referred to as they arise in a main issue. Mr Hammond advised that the Council has started to prepare a new Local Plan but this was at a very early stage in the process and adoption was not expected until 2025 at the earliest.

Main Issues

5. The main issues are:
 - The appellants' status as gypsies or travellers;
 - The effect of the development on the character and appearance of the area;
 - The effect of any land contamination on site on the health and well-being of the residents of the site;
 - The need and supply of gypsy/traveller sites;
 - The availability of alternative sites; and
 - The personal circumstances of the appellants and best interests of children.

Reasons

Background

6. The appeal site comprises a long narrow strip of land which lies alongside (old) Cambridge Road at a point where this is now a cul-de-sac leading to a small group of houses around Wimbridge Close. Otherwise the local area is countryside with open fields leading to the roundabout junction of Cambridge Road and Ermine Way.
7. At the time of my visit there was a static caravan and two touring caravans on the site as well as an amenity building and small outbuildings. In the southern part of the site once used as a builder's yard there was a building now used as a gym with a boxing ring.
8. A previous appeal decision is relevant to this case. In essence, an inspector in deciding related appeals against an enforcement notice concerning the use for the stationing of a mobile home for residential occupation decided to allow a co-joined planning appeal for the use of the land for a residential caravan site for one gypsy family with two caravans including one static mobile home. The permission was for a temporary period of two years and therefore expired on the 21 February 2017. Moreover, the permission was subject to 9 conditions No.3 of which, in summary, required the use to cease within three months if, amongst other aspects, a scheme for the investigation, assessment and remediation of any contamination found on the site was not submitted and agreed by the Council.
9. The inspector found that the substantial harm to the character and appearance of the area and to sustainable development objectives would not be overcome by a permanent permission. However, he found that a temporary permission was justified as it would enable alternative gypsy and traveller pitches to

become available in the local area and that would limit the harm caused by a lack of infrastructure improvements.

The appellants status as a gypsy or traveller

10. The previous inspector concluded that he had no reason to doubt Mr Crotty's claim to be a Romany Gypsy although he acknowledged that the case was far from conclusive as there was not much evidence of travelling away for work and having a nomadic habit of life. In the current case at the hearing Mr Crotty reaffirmed that he was a gypsy and travelled around the area for work doing landscaping. He also travelled away to horse fairs to buy and sell animals as part of his business. He acknowledged that currently he did not travel much away for long periods of time overnight because of his young family, but he said he had not given up a gypsy way of life and he needed to use the site as a settled base.
11. Local people suggested that it did not appear that Mr Crotty was often away from the site overnight and the Council said that the appellants had not responded to its request for more information to establish a gypsy status. Nevertheless, the Council did not contest the appellant's claim.
12. On the limited evidence before me there is no clear reason to doubt Mr Crotty's status as a gypsy and that his family are his dependants. It is therefore appropriate that the case is considered in relation to national and local policies that relate to Gypsies and Travellers.

Effect on character and appearance

13. The main parties agree that LP Policy H/22 is relevant and that criteria (a) and (g) are applicable to the case as the others are met or are not appropriate. Criterion (g) indicates (*inter alia*) that to be acceptable a Gypsy or Traveller site must not have an unacceptable adverse impact on the amenity of surrounding land or the wider countryside landscape. Policies NH/2 and HQ/1 (a) also require landscape character to be protected. Criterion (a) concerns need which I will consider under a different issue.
14. The site lies in the countryside with an open field to the north but with the small enclave of development around Wimbridge Close to the south. All of the boundaries of the appeal site are enclosed by hedging, shrubs and occasional mature trees although the hedge along (old) Cambridge Road is sparse in places. The roof and part of the side elevation of the mobile home is visible to the public realm around the entrance to the site and the junction with the residential cul-de sac. In other views from the north-east and south-west along this road the site is well screened. I also looked at the site from Cambridge Road and Ermine Way but again the boundary hedging well screens the site viewed over the open field.
15. Bearing in mind the lawfulness of the building previously associated with the engineering works/ builder's yard use, and the possibility of the amenity building at the eastern part of the site being immune from enforcement action, I find that the mobile home, and touring caravan and other residential paraphernalia would have a very limited and local adverse visual impact on the amenity of the surrounding land and the wider countryside landscape would not be harmed. I acknowledge that (unusually at this time of the year) the boundary landscaping was in full leaf and some of the plants were deciduous.

Even so I do not consider that the visual impact and physical presence of the development proposed would be materially greater in the winter. Overall, I judge that the proposal does not appear visually out of place adjoining the existing enclave of development.

16. This conclusion on the effect on the character and appearance of the area differs from that reached by the previous inspector who found that the same proposal at that time would cause 'substantial harm'. It may be that the character and appearance of the site has changed in the intervening eight years and local people acknowledged that the boundary landscaping had grown higher and matured. Whatever the reason for the difference in judgement the proposed development has to be considered in the present circumstances.
17. I conclude on this issue that the proposed use as a residential caravan site for one gypsy family would not result in an unacceptable impact on the amenity of the area or harm the landscape character of the surrounding countryside. As such there is no conflict with the relevant parts of Policy H/22 (g) or Policies NH/2 and HQ/1.

Land contamination

18. The site may have contamination arising from the previous use as an engineering business or as a builder's yard, although local people recall the business as very low key and almost a hobby operated by one man. As mentioned in paragraph 8 above the previous inspector imposed a condition on the temporary permission requiring the submission of a scheme for the assessment and mitigation of any contamination on the site. Mr Brown for the appellant said that a scheme was submitted in June 2015 and the Council gave it reference no. S/1402/15/DC but nothing further was heard from the Council as to whether it gave adequate information to satisfy the condition.
19. Although the Council were not aware of the outcome of the application at the hearing further time was given afterwards to research the information. It appears that an application was made to discharge the condition and it was acknowledged by the Council. The Council says that while the electronic system records the application as 'object to' there is no record of a decision notice having been issued.
20. This leaves the previous land contamination issue unresolved. The Council says that a similar condition could be imposed if I was minded to allow the appeal. However, there is not sufficient evidence of land contamination for that to be justified. The site is not referred to on the Land Contamination Register. Moreover, the appellants say that the mobile home was placed on a new concrete base which effectively sealed the surface of that part of the land. It is likely that if there was land contamination in the ground this would only be disturbed if footings for buildings needed to be dug, such as for the amenity building/day room, but it is clear from my comments in paragraph 2 and 3 above that the day room already erected may now be immune from planning control.
21. Overall on this issue on the evidence put to me I conclude that it has not been established that there is a material issue of land contamination on the site which may affect the health of the occupiers or others through the specific proposal before me. I find no clear conflict with the provisions of Policy SC/11.

Need and supply of gypsy/traveller sites and alternative sites

22. Councils are required to demonstrate a five-year supply of gypsy and traveller sites to meet the locally assessed need for such sites as set out in the national Planning Policy for Traveller Sites (PPTS). The Council accepts that following the Court of Appeal judgement on the case of *Lisa Smith* it is no longer appropriate to rely on the Gypsy and Traveller Accommodation Assessment (GTAA) undertaken in 2016. Moreover, the Council accepts that the total need for all ethnic gypsies and travellers leaves a considerable unmet need, of around 120 pitches, for culturally appropriate accommodation. A similar conclusion was reached by the inspector in making the recent appeal decision APP/W0530/W/23/3317545 on a site elsewhere in the district.
23. In relation to the supply of sites the current LP does not make any allocation for gypsy or traveller sites but relies on the criteria based Policy H/22. Mr Hammond explained that the Council have started the preparation of a new LP on a joint basis with another authority and a new GTAA is being undertaken to understand the needs of gypsies and travellers. However, he agreed that the adoption of the new LP is some way off with adoption unlikely to be before the end of 2025.
24. In terms of alternative sites the Council does not dispute that there are no vacant pitches on existing lawful sites and Mr Hammond said that the public sites were full with long waiting lists. No other party was aware of any alternative site that the appellants could turn to if the current site did not prove to be acceptable.
25. Taken together I find that the Council cannot demonstrate an adequate supply of sites at the moment to meet the needs of ethnic gypsies and travellers and the level of unmet need is substantial. Moreover, private new sites are only likely to come forward through the criteria based policy H/22 as the positive allocation of sites is unlikely to come forward locally through the development plan process for some time. There are also no alternative sites that are currently reasonably available for the appellants and family. These factors need to be given considerable weight in favour of the appeal scheme.
26. In terms of individual need although the appellants have not shown what wider links they have within the district they have occupied the site with their family since before 2014 and have ongoing educational and health needs which are met locally. I am satisfied that the appellants have demonstrated a clear need for their residential occupation of the site.
27. In policy terms the appellants have shown a clear need for a site in the district and which cannot be met by a lawful existing site. Therefore, I find that the proposal accords with criterion (a) of Policy H/22.

Personal circumstances and best interests of children

28. The appellants' statement sets out their personal circumstances and those of their children living on the site and these were added to at the hearing. However, given my conclusions on the first three main issues I do not need to consider these further.

Other matters

29. The local people at the hearing raised concern that any permission may set a precedent for further residential accommodation on the appeal site. There is no evidence that such is contemplated by the appellants and the appeal site is relatively contained and limited in extent. In any event I have to deal with the proposal on its individual planning merits.

Planning balance

30. At the start of the planning balance I have borne in mind the requirements of the Public Sector Equality Duty and I have placed no single factor above the best interest of any child living on the site. It is also appropriate to consider the proposal in respect of local and national policies for gypsies and travellers as, on balance, the appellant has demonstrated his gypsy life although he does not travel away for long periods at the moment because of his young family.
31. This appeal needs to take into account the decision made on the previous appeal and the fact that permission was only granted for a limited period of two years partly to enable alternative sites to come forward. However, on the main issues in this case I have found that the residential caravan site would not now have an adverse effect on the amenity of the area or harm the surrounding countryside landscape. This means that the proposal does not conflict with criterion (g) of Policy H/22. Criterion (a) of the same policy is also met as the appellants have demonstrated a clear need for a site. Therefore, in policy terms the proposal accords with the main relevant policy and the related policy governing the effect on the landscape. Thus, the proposal meets Policy S/7 part 2 as an exception for development outside 'development frameworks'.
32. I have also found that there is a substantial unmet need for ethnic gypsy and traveller sites at the moment which will not be met through the plan making process for some time. Nor are there recognised alternative sites available now.
33. Overall the accord with the development plan is supported by the balance of other considerations and this means that the appeal should be allowed on a permanent basis.
34. I recognise that this decision will cause frustration to the local community as the previous inspector found that the substantial harm caused only justified a limited period permission of two years, yet the residential use still remains. Nevertheless, it is clear to me that the circumstances on the site have changed materially in the intervening period, albeit unauthorised, coupled with the different policy basis and the lack of any reasonable alternative sites being available now.

Conditions

35. The Council recommends seven conditions which I will consider under the same numbering. It is reasonable and necessary that the plans put forward are specified in the interests of certainty and the development carried out should accord with them. I will therefore impose condition No.1. Conditions 2 and 3 relate to land contamination but there is little evidence available to justify the imposition of these conditions. Condition No.4 restricts the occupation of the site to people with a nomadic habit of life as that is the development put forward and considered under relevant policies, but I will amend the 'standard'

condition put forward by the Council in the light of the legal judgement in the case of *Lisa Smith*. It is also reasonable and necessary that the number and type of caravans is specified in the interests of the appearance of the area and I will impose condition No. 5. For similar reasons and to protect the local environment I will impose condition No.6 as the restriction on storage takes into account of the appellants' business. Finally I agree that control over external lighting is necessary in the interests of protecting the amenity of the area but will amend this in line with the discussion at the hearing that it should only refer to free standing lighting and not external lighting placed on the caravans.

Conclusion

36. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr P Brown BA (Hons)	Philip Brown Associates
Mr R Crotty	Appellant
Ms Girling	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Hammond, MRTPI	Area Team Leader, Greater Cambridge Shared Planning Team
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INTERESTED PARTIES:

Cllr Van De Weyer	Councillor - South Cambridgeshire DC
Dr M Tarbit	Local resident
Ms S Lloyd	Local resident
Mr D Sands	Local resident

Documents submitted at or after the Hearing

1. Appeal Decision APP/W0530/W/23/3317545
2. Statement of Common Ground signed by the main parties.
3. Letter from the Council dated 30 October 2023 regarding application S/1402/15/DC.

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved plans: location plan (received 12.04.2022) and site layout plan (received 12.04.2022).
- 2) The site shall not be occupied by any persons other than gypsies and travellers, defined as persons of a 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 site shall comprise a single gypsy and traveller pitch. No more than two caravans at any one time, being caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, only one of which may be a static mobile home, shall be stationed on the site at any one time.
- 4) No more than one commercial vehicle, which shall be solely for the use of the residential occupiers of the site and shall be under 3.5 tonnes in weight, shall be stationed, parked or stored on this site. No commercial use shall take place on the site at any time. Non-domestic storage shall be limited to equipment associated with Mr Ricky Crotty's business and shall take place only for as long as he is resident on the site. Any such storage shall take place only within the confines of the lawful buildings and caravans on the land.
- 5) No free standing external lighting shall be installed on the site unless details have first been submitted to and approved in writing by the local planning authority, including hours of use and intensity and direction of illumination. The installation shall take place as approved.

-End-