



Appeal Decisions

Hearing held on 1 October 2024

Site visit made on 1 October 2024

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 4TH NOVEMBER 2024

Appeal A Ref: APP/J0405/C/22/3313816

Land adjacent to 64 Winslow Road, Granborough, BUCKINGHAM, MK18 3NQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Thomas Sullivan against an enforcement notice issued by Buckinghamshire Council.
 - The notice was issued on 22 December 2022.
 - The breach of planning control as alleged in the notice is the material change of use of the land to a mixed use of residential and equestrian.
 - The requirements of the notice are to: 1) Permanently cease the residential use of the Land, 2) Permanently remove from the Land the mobile home marked with a black X on the plan, 3) Permanently remove from the Land all residential paraphernalia including but not limited to: astro turf, play equipment and garden furniture.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/J0405/W/22/3312086

Stately Stables, Winslow Road, Granborough, BUCKINGHAM, MK18 3NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Thomas Sullivan against the decision of Buckinghamshire Council.
 - The application Ref is 20/02071/APP.
 - The development proposed is Siting of 1 mobile home for residential use by Gypsy/Traveller family.
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Decisions

Appeal A

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the land to a mixed use of residential and equestrian at Land adjacent to 64 Winslow Road, Granborough, MK18 3NQ as shown on the plan attached to the notice and subject to the conditions in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for the siting of 1 mobile home for residential use by Gypsy/Traveller family and partial change of use of existing stables to ancillary washing facility together with siting of 1 touring caravan, at Land adjacent to 64 Winslow Road, Granborough, MK18 3NQ in accordance with the terms of the application, Ref 20/02071/APP, subject to the conditions in the attached schedule.

Application for costs

3. The appellant has made a costs application against the Council which is the subject of a separate decision.

Preliminary Matters

4. Prior to the hearing, the Council confirmed that it was not seeking to defend the reason for refusal number 1 on Planning Application Ref: 20/0207/APP dated 22/11/2022 ("the 2020 Application") or the corresponding reason for issuing the notice regarding the sustainability of the location in the open countryside.
5. The agreed description of development in Appeal B is the change of use of the land for the siting of 1 mobile home for residential use by Gypsy/Traveller Family and partial change of use of existing stables to ancillary washing facility together with siting of 1 touring caravan (Retrospective). This is different from the description initially provided in the application but the change was agreed between the parties.
6. Whilst the alleged breach of planning control in the notice is simply the material change of use of the land to a mixed use of residential and equestrian the development has already occurred and is in fact the same in each appeal.
7. The appellant meets the definition of gypsy and traveller in Planning Policy for Traveller Sites 2023 ("the PPTS").

Appeal A - Ground (a) and the deemed planning application, and Appeal B

8. Taking into account the written submissions, discussions at the hearing and observations during the site visit, the main issue is the effect of the development on the character and appearance of the area.
9. The Vale of Aylesbury Local Plan 2013 – 2033 ("the VALP") was adopted in September 2021 and is part of the development plan for the area.
10. The appeal site is located adjacent to, but outside of, the settlement boundary of Granborough as defined in the VALP and Granborough Neighbourhood Plan 2022 ("the GNP"). It was granted permission for the change of use to equestrian use, erection of stables and a riding arena under reference 19/02592/APP. Whilst there is disagreement about whether or when this permission was implemented, there is a stable building and sand school on the site and the notice does not require them to be removed or for the equestrian use to cease. Nor is there currently any other enforcement action being taken against these matters.
11. Policy S3 of the VALP deals with Settlement Hierarchy. It states that other than for specific proposals which support thriving rural communities and development of allocations new development in the countryside should be avoided, especially where it would compromise the character of the

countryside between settlements and result in a negative impact leading to coalescence. The alleged mixed development remains within the same area of land for which the 2019 Permission was granted and so does not encroach further into the countryside. The caravan sits between the sand school and settlement edge on the hardstanding in front of the stables and so does not extend the built environment further into the fields.

12. Policy H of the PPTS states at paragraph 25: "Local planning authorities should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settlement community, and avoid placing an undue pressure on the local infrastructure." The PPTS therefore allows, in principle, for new Traveller sites in rural and semi-rural locations. Gypsies and Travellers often live in the edge of the countryside, and so are often part of the rural community which is also relevant when considering Policy S3.
13. I therefore give Policy H great weight, and whilst the site falls outside of the settlement boundary provided in the VALP (and reflected in the GNP) it is located immediately adjacent to that boundary and cannot be considered to be within the open countryside that is away from existing settlements. In addition, it is a single pitch site accommodating one family and is not dominating the nearest local settlement of Granborough.
14. Policy S6 of the VALP sets out the required pitch provision and allocations to accommodate Gypsies and Travellers until 2033, and Policy D11 sets out a criteria-based approach to assess applications for new pitches or sites as required by the PPTS. These policies are material to the planning applications being considered.
15. Policy D11 provides that sites will be supported where there is an identified need taking into account local provision and availability of alternative sites, and where the listed criteria are also met. The need referred to in Policy D11 has both a general and personal element. The Council now accepts that the general need is met in this case as they cannot demonstrate that they have a 5 year supply of pitches. This is in light of the age of the GTAA which relied on evidence compiled in 2016 and also recent appeal decision reference APP/J0405/W/23/3334857 which found that there is a general need for more pitches.
16. In any event, the identified need required by Policy D11 can also be of a personal nature and it is evident in this case that the appellant and his family do have a personal need to live on the site and have nowhere else to go.
17. There is no dispute that the appeal site meets most of the criteria set out in Policy D11; it is located on the edge of an existing settlement with some bus services and is sustainable with safe vehicular access; the development provides good living conditions which is suitably designed with appropriate levels of space and privacy for those living on the site and neighbours; it is adequately serviced; small in scale and appropriate to the size of the local settled community; and not at risk of flooding. It therefore meets criteria a), b), c), e), f), g), h) and i) of Policy D11.

18. The Council's case is that the development does not meet criterion d) of Policy D11, as it harms the character and appearance of the surrounding area including its rural nature. Criterion d) provides that the development should not have a significantly adverse impact on environmental assets including the countryside and landscapes. Any harm caused to the character and appearance of the area would also be in conflict with VALP Policy BE2 which provides that development shall respect and complement the physical characteristics of the site and its surroundings including the scale and context, and VALP Policy N4 that it should respect local character and distinctiveness and minimise impact on visual amenity.
19. The site is well-designed and maintained, and sits comfortably next to neighbouring houses without the caravan or stables being overly close or domineering. The gate at the front of the property is fairly high and of a solid construction meaning that little can be seen from the road. The gates have a fairly domestic appearance, but the stables permission also included gates and a fence in that location and no design was specified as part of that consent. The lower fence on either side of the gate has a hedgerow behind which will become more established over time. The gate is set back from the road as required by the highways authority to provide safe access and presents as an attractive appearance overall.
20. The site was recently granted permission for the stable and equestrian use, notwithstanding that there is uncertainty regarding whether this permission was implemented prior to the start of the residential use. The siting of the mobile home and other residential paraphernalia on the site alters the appearance of site overall even though views into the site are limited from the adjacent road. The scale and massing of the caravan, and the materials used in the development including the cladding and roof materials complement the design of the stables.
21. When viewing the appeal site from the adjacent public footpath the single storey form of the stable-building and the caravan sit well within the context of the nearest houses in Granborough. Their appearance taken in conjunction with the sand school also sits well within the wider views to the north west which consist of open fields but with some residential and agricultural buildings. The planting along the boundary will also mature in time and its maintenance and retention can be secured by the imposition of a landscaping scheme. This will soften the views into the site but also help it to blend with the wooded area to the south and east of the appeal site.
22. There is a caravan with permission to be used in connection with the keeping of horses on the land directly opposite the site. It has a solid wooden fence with a high entrance gate which includes a small gap in middle which allows some extremely limited views from the road and it can be seen that the caravan is coloured white. Overall, there is very little in the way of views into that site or the countryside beyond due to the height of the fence and the established hedgerow. This site, with caravan and horse-related use, has a similar appearance in the edge of settlement location, albeit it does not have permission for residential use and is not as well-designed or maintained.
23. Whilst I accept that the residential use changes the appearance of the site, it is not harmful and the equestrian use is still evident when viewing the site from both the road and footpath. It therefore integrates well with the wider

area (including the site directly opposite) and is suitable in this edge of settlement location. Caravans, and Gypsy and Traveller sites, are not an uncommon sight within rural areas and not harmful to character and appearance per se. The development does not have a significantly adverse impact on the countryside and landscape and is not therefore in conflict with Policy D11(d), or other policies in the development plan. The mixed use does not cause harm when compared against the previously consented equestrian use, and irrespective of whether that permission was implemented, the Council are not seeking to enforce against that element of the mixed use.

Other Matters

24. There is no need to consider the personal circumstances of the appellant and other occupants of the site as the development is in accordance with the development plan.
25. Whilst there were representations made regarding whether the land was to be considered as previously developed land as set out in the NPPF, this issue does not need to be considered in any further detail as it is not a material consideration in the decision.
26. The planning application for the siting of the caravan was made retrospectively but there is statutory provision to allow for such retrospective action. The appellant has appealed the refusal of permission and the enforcement notice: both attempts to regularise the position and allow for any necessary conditions to be imposed to mitigate any harm and make the development acceptable.
27. Highways safety issues relating to the site access have already been dealt with by the Highways Authority, and the layout including the limitation of one mobile home and storage of one touring caravan can be secured by the imposition of the relevant conditions as set out below.
28. It is accepted that the edge of village location is sensitive but the land was granted permission for equestrian use in any event which would have a similar effect on the entrance to the village and immediate vicinity in terms of appearance.
29. There were not compelling details before me regarding harm caused to the living conditions of occupiers of neighbouring properties, and indeed the development is to provide a residential use which is the same use as the immediate neighbours. Likewise there is nothing before me to show that the development will have an effect on property values in the area, or that this could be a material consideration.

Conclusion on Appeal A – ground (a), and Appeal B

30. For the reasons as set out above, the development does not cause harm to the character and appearance of the area. It is compliant with Policy D11, the VALP as a whole, the PPTS and the NPPF, and as there are no material considerations to indicate otherwise Appeal A on ground(a) and Appeal B succeed, and the deemed planning application is granted.

Conditions

31. The conditions to be imposed on the appeals meet the statutory and policy tests, and are required in order to make the development acceptable.

32. Two sets of conditions are required, one for the planning permission to be granted in each appeal.
33. Condition 1 on Appeal B is required to provide certainty regarding the layout and design of the development by requiring that the development is carried out in accordance with submitted plans. However, I cannot tie any permission granted via Appeal A, in respect of the development alleged in the notice to those plans. Instead, a condition should be imposed to require the submission and subsequent approval and implementation of the relevant details.
34. In relation to both appeals, it is reasonable and necessary in the interests of the character and appearance of the area and living conditions of the occupiers of the site, to ensure that the details of a site development scheme are submitted to and approved in writing by the local planning authority and implemented as approved. The site development scheme will ensure that adequate arrangements are provided for surface water drainage, the required biodiversity net gain, and suitable soft landscaping works, external lighting and electric vehicle charging point.
35. This condition sets out a strict timetable for compliance because the permission is being granted retrospectively, and so it is not possible to impose a negatively worded condition to secure the approval and implementation before the development takes place.
36. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with the approved timetable.
37. A condition is required in both appeals to restrict the occupation of the site to those meeting the definition of gypsy and traveller provided by the PPTS because the permissions have been granted on the basis of the appellant as a Gypsy and assessed against Policy D11 which deals with the need for new pitches. These conditions are intended to restrict use of the site only for his purpose.
38. In both appeals, conditions are reasonable and necessary to regulate the number of caravans, types of vehicles and restrict the commercial use of appeal site (other than the buying and selling of horses which is traditional in the appellant's Gypsy heritage) in order to reduce the impact on the character and appearance of the area. Also given the location of the site and to make the development acceptable, a condition is required to restrict the future use of permitted development rights relating to external illumination so that any changes to the lighting as agreed as part of the site development scheme would have to be approved by the local planning authority.
39. A condition to ensure replacement planting over a period of five years if required is also reasonable and necessary to protect the character and appearance of the area, particularly when viewed from the footpaths and adjacent houses.
40. I have not included a condition requiring the details of the entrance gates and means of enclosure to be agreed with the local planning authority as this is not necessary for the reasons given above.

Conclusion

41. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the use as described in the notice. The enforcement notice will be quashed. Appeal B is also allowed.
42. In these circumstances the appeal on ground (g) does not fall to be considered.

Zoë Franks

INSPECTOR

SCHEDULE OF CONDITIONS

Appeal A

1. 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 dependents' education 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.
2. In accordance with the submitted plans, there shall be no more than two caravans stationed on the site at any one time, of which no more than one shall be a static caravan.
3. No vehicle (excluding Horse boxes and trailers) over 3.5 tonnes, shall be stationed, parked or stored on this site at any time.
4. No commercial activities (other than the buying and selling of horses) shall take place on the land, including the storage of materials at any time.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site.
6. 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) a) to e), ii, iii and iv below:
 - (i) Within 3 months of the date of this decision a 'site development scheme' shall be submitted to include:
 - a) the site layout including the siting of the caravans , parking, and elevational and floor plans, and details of external materials
 - b) the means of surface water drainage of the site
 - c) proposed external lighting;
 - d) the location and details of one electric vehicle charging point; and
 - e) a scheme to achieve measurable biodiversity net gain and mitigation including a timetable for implementation, monitoring and management and details of the baseline; shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - f) soft landscape works including boundary treatment and additional planting along all boundary edges shall be submitted to and approved in writing by the local planning authority. These details shall include schedules of plants noting species, plant supply sizes and proposed densities; written specifications (including cultivation and other operations associated with tree, plant and grass establishment; and the timetable for implementation
 - (ii) If within 11 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 retained.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 there shall be no means of external illumination other than that approved under condition 6(i)(c) above unless details of it have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

8. If within a period of five years from the date of the planting of any tree or shrub that forms part of the approved soft landscaping pursuant to condition 6(i)(f), that tree or shrub, or any tree and shrub planted in replacement for it, is removed, uprooted or destroyed, dies, becomes severely damaged or diseased, shall be replaced in the next planting season with trees and shrubs of equivalent size, species and quantity.

Appeal B

1. The development shall be implemented in accordance with the following approved plans in full:

- Drawing no. J003604-DD-01B – Site Location Plan
- Drawing no. J003604-DD-02 – As Existing Site Plan
- Drawing no. J003604-DD-03A – As Proposed Site Plan
- L-Shape Stable Block Brick Course 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 dependents' education 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. In accordance with the submitted plans, there shall be no more than two caravans stationed on the site at any one time, of which no more than one shall be a static caravan.

4. No vehicle (excluding Horse boxes and trailers) over 3.5 tonnes, shall be stationed, parked or stored on this site at any time.

5. No commercial activities (other than the buying and selling of horses) shall take place on the land, including the storage of materials at any time.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility

buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site.

7. 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) a) to e), ii, iii and iv below:

(i) Within 3 months of the date of this decision a 'site development scheme' shall be submitted to include:

- a) the means of surface water drainage of the site
- b) proposed external lighting;
- c) the location and details of one electric vehicle charging point; and
- d) a scheme to achieve measurable biodiversity net gain and mitigation including a timetable for implementation, monitoring and management and details of the baseline, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- e) soft landscape works including boundary treatment and additional planting along all boundary edges shall be submitted to and approved in writing by the local planning authority. These details shall include schedules of plants noting species, plant supply sizes and proposed densities; written specifications (including cultivation and other operations associated with tree, plant and grass establishment; and the timetable for implementation.

(ii) If within 11 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 retained.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 there shall be no means of external illumination other than that approved under condition 7(i)(b) above unless details of it have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

9. If within a period of five years from the date of the planting of any tree or shrub that forms part of the approved soft landscaping pursuant to condition 7(i)(e), that tree or shrub, or any tree and shrub planted in replacement for it, is removed, uprooted or destroyed, dies, becomes severely damaged or diseased, shall be replaced in the next planting season with trees and shrubs of equivalent size, species and quantity.

APPEARANCES

FOR THE APPELLANT:

Alan Masters, Counsel

Brian Woods, WS Planning & Architecture

Peter Brownjoy, WS Planning & Architecture

Thomas Sullivan, Appellant

Shirley Bennett, Neighbour

FOR THE LOCAL PLANNING AUTHORITY:

Dipanwita Chatterjee, Principal Planning Officer

Carrie Chan, Senior Planning Officer

Olivia Stapleford (Enforcement Team Leader)

Clare Merrit (Principal Planning Enforcement Officer)

DOCUMENTS

1. Signed Statement of Common Ground dated 30 September 2024
2. Draft Conditions
3. Appeal decision reference APP/J0405/W/23/3332664 dated 13 February 2024
4. Appeal decision reference APP/J0405/W/3334857 dated 11 September 2024
5. Appeal decision reference APP/J0405/W/19/3219596 dated 26 February 2020
6. Appeal decision reference APP/J0405/W/18/3193773 dated 21 August 2018
7. Rights of way plan
8. Bundle with Personal Circumstances Update Documents
9. Letter from Reverend Elsmore dated 30 September 2024