



Appeal Decision

Hearing Held on 3 October 2018

Site visit made on 3 October 2018

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2018

Appeal Ref: APP/Z3825/W/17/3192171

The Spoons, Harbolets Road, West Chiltington, West Sussex, RH20 2LG

- 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 D Lidbetter against the decision of Horsham District Council.
 - The application Ref. DC/17/0865, dated 24 April 2017, was refused by notice dated 22 June 2017.
 - The development proposed is the use of land for the stationing of caravans for residential purposes for one family gypsy pitch together with the formation of a hardstanding and a utility/day room ancillary to that use.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Council registered the application as including the retention of the existing stable block on site, however this work did not form part of the appellant's application. Further, Mr Green for the appellant said that the planning status of the stable as a building was contested as was the length of time that it had existed on site. These elements need to be resolved by the parties separately from the appeal proposal and I have dealt with the application without reference to the stable block other than I noted that it existed on site at the time of the visit.

Main Issues

3. The main issues are:
 - The principle of the development in this location;
 - The effect on the rural character and appearance of the area;
 - The accessibility of the site;
 - The effect on pedestrian safety;
 - The need and supply for gypsy and traveller sites and alternative sites; and
 - The intended occupier's personal circumstances.

Reasons

Background

4. The appeal site comprises a relatively small parcel of land extending to about 950 sq.m and it has a short frontage to Harbolets Road and has an access to a private drive to the side of the site which leads to other houses. The site is flat and open with a timber stable block at the eastern end and I noted at my site visit that a laurel hedge had been planted along the boundary with the highway and a conifer hedge alongside the private track. The surrounding area is rural in character and there are some scattered houses in large gardens and farmsteads along the road. Further, in the vicinity of the site there are wide grass verges along the roadside and these, coupled with the extensive tree coverage and hedges, give the area a verdant appearance. It is proposed to use the site for a single gypsy family pitch comprising a timber-clad day room, static mobile home and space for a touring caravan.
5. I note that the appellant submitted a proposal for an arboricultural yard and store building in 2015 but planning permission for this was refused and an appeal was dismissed¹. The Inspector concluded that such development would be contrary to the countryside policies in the development plan and would be harmful to the character and appearance of the site and its surroundings.

Policy context

6. The relevant part of the development plan is the Council's Horsham District Planning Framework (HDPF) adopted in 2015. Mr Green for the appellant says that the policies relied on by the Council have to be considered as 'out of date' as they are no longer wholly consistent with the National Planning Policy Framework (NPPF) as revised in July 2018. Further, as detailed in a subsequent main issue, the Council cannot demonstrate a 5 or 10 year supply of gypsy and traveller sites, as required under Policy B of the national Planning Policy for Traveller Sites (PPTS), and this limits the weight that can be given to policies which restrict the supply of such sites. In these circumstances I will assess the weight to be given to specific policies within the main issues and form an overall view of the consistency with national policy when read as a whole.

The principle of development

7. The Council says that the proposed gypsy site would be contrary to HDPF Policy 26 which deals with countryside protection, and relates to land outside of built up area boundaries. The policy puts forward four criteria for essential forms of development in such a location. While the proposal does not fall within any of the specified criteria, it is not clear to me that there is policy presumption against the proposal as the specific policy on gypsy and traveller sites, Policy 23, does not appear to rule out a countryside location, albeit that a site must be 'in or near a settlement' according to criterion (d) of this policy.
8. I am also conscious that Policy C of the PPTS indicates that while scale is an issue when assessing the suitability of sites in rural or semi-rural locations, it does not rule against the principle of such locations. The PPTS goes on to indicate in paragraph 25 that sites in open countryside that are away from existing settlements should be very strictly limited. Whist I acknowledge that

¹ APP/Z3825/W/15/3136292.

the appeal site lies in the countryside, I would not describe it as *open countryside* because of the array of scattered development that exists around the site. Further, in terms of the NPPF, while this generally supports rural housing, although the emphasis is placed on this being found in settlements or groups of small settlements, I would not describe the location of the appeal site as 'isolated' in the countryside, when applying the findings of the Court of Appeal on this term in the case of *Braintree*².

9. On the basis of the main policies and national guidance put to me, I conclude that there is not a policy objection in principle to the development proposed in a general countryside location.

Effect on character and appearance

10. In assessing this aspect at the site visit I considered the appeal proposal from the appeal site itself and from the environs of Harbolets Road in the vicinity of the site. At the moment the site has a simple open aspect with a small timber stable and with some landscaping along its boundaries, and it contributes to the present rural character of well scattered properties mostly set back from the road frontage.
11. The proposal involves a change of use but the day room building proposed, static caravan and hard surfacing would be permanent features which would be sited relatively close to the highway and seen along the road frontage. Although the day room is proposed to be constructed with a rustic timber clad form I have concerns about the overall spread of physical development on this small plot and I am concerned that it would not have the similar spacious and verdant appearance as existing development in the locality.
12. I acknowledge that the scheme proposes additional planting and I noted the hedge landscaping already undertaken and the retention of this hedge could be conditioned, but such natural features cannot be relied on in perpetuity to screen the development. Further, it appears to me that even if new hedging is able to grow it will take some time to make an effective screen and the proposed development would be very conspicuous in views for about 100 metres along Harbolets Road.
13. Overall on this issue I find that the proposed development would have a significantly harmful effect on the character and appearance of the present rural landscape and would not protect, conserve or enhance it. Therefore, HDPF Policy 25, is conflicted with as the proposal constitutes 'inappropriate development' as set out in the policy. Further in terms of the consistency with the NPPF as modified in 2018, I note that the NPPF indicates in paragraph 170 that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and by recognising the intrinsic character and beauty of the countryside. Even though the area of countryside around the appeal site does not have any special landscape designation, and as such may not be a *valued* landscape, the intrinsic character and beauty of the countryside is recognised in the national guidance in paragraph 170 and this makes it worthy of conserving for its own sake. I am satisfied that Policy 25 is broadly consistent with this guidance and that the weight to be attached to the policy should not be reduced.

² *Braintree v SSCLG et al* [2018] EWCA Civ 610

Pedestrian safety and accessibility

14. The Council confirms that its concern on these issues was about the location of the site away from services and facilities and the fact that the local rural lanes do not facilitate safe walking, and the Council does not put forward an explicit objection to the use of the existing access to Harbolets Road on highway safety grounds.
15. The main parties and local objectors to the proposal set out the distances that the appeal site is situated away from the nearest villages and centres that provide facilities for day to day needs and to public transport. In summary, essential services are at least 2.5km away and the closest bus stops are 1.7km away from the appeal site. I travelled the route to the nearest main villages of Billingshurst and Ashington at my site visit.
16. Looking at the overall picture, it is clear to me that the site lies well away from any settlements or facilities essential for day to day living or from public transport modes. Further, I found that the Harbolets Road was a busy rural road and although there are wide grass verges in the vicinity of the appeal site, the general form of the road locally is one with narrow or no verges to give a refuge to pedestrians off the carriage when a vehicle is approaching. Also I found the lanes to be twisty in alignment with limited long distance visibility. On the basis of what I saw I understand the Council's concern that Harbolets Road is not conducive to safe pedestrian movement. There is a likelihood that the occupier(s) of the proposed gypsy and traveller site would be very dependent on the use of private motor vehicle transport for day to day living.
17. Overall, I find that the appeal site lies in a location which is not within or near to a settlement nor within a reasonable distance of a range of local services and community facilities and therefore its siting does not accord with criterion (d) of HDPF Policy 23 regarding gypsy and traveller sites. Moreover, I find that this policy is consistent with the NPPF which indicates in part 9 that the planning system should manage a pattern of growth in favour of promoting sustainable transport objectives. I recognise, as does the Framework in paragraph 103, that opportunities to maximise sustainable transport will vary between urban and rural areas and that travel is inherent in a traditional gypsy way of life, but the remote location of the site from settlements and services indicates that its development for a gypsy pitch would not be in the interests of a sustainable pattern of growth in the long term.

Need and supply of sites

18. Policy B of the PPTS indicates that Councils should be able to ensure within their local plan framework a five year supply of specific and deliverable sites set against a local target based on identified need. The Council are preparing a Gypsy, Traveller and Travelling Showpeople Site Allocation Development Plan Document (DPD) but the Council accepts that following consultation and amendment the DPD has become becalmed at the moment and no date for the examination or the likely adoption of the plan has been set. As such the needs established in the Gypsy, Travellers and Travelling Showpeople Accommodation Needs Assessments 2012 and 2017 (GTANA), show an existing shortfall of 47 pitches and a projected need for a further 9 additional pitches over the period to 2022, which were unlikely to be met. Moreover, the net provision of sites is

likely to be affected by the decisions on appeals at Kingfisher Farm³, where in September of this year, enforcement notices were upheld and planning permission was refused for some 11 pitches near Billingshurst. Although Mr Green suggested that these decisions may be challenged in the High Court, as they stand there is a clear implication that the current unmet need and lack of provision of sites is likely to increase. Mr Green also disputed some aspects of the Council's methodology and says that GTANAs have resulted in an underestimation in the level of need for pitches in the district.

19. I conclude on this issue that the Council is unable to demonstrate a five year supply of gypsy and traveller pitches at the moment and that there is a significant level of unmet need for such sites which the plan-led system is not likely to resolve in the short to medium term. These are factors to which I give significant weight.

Personal circumstances

20. The appellant proposes that the gypsy site would be occupied by his uncle, a gypsy, who is presently living on an unauthorised site and in poor accommodation. He has lived locally all his life and the appeal proposal would in particular enable him to continue to use the local doctor and medical facilities in respect of his medical condition and poor health. Further, the Council accepted at the Hearing that there were no alternative lawful sites available at the moment that the appellant's uncle could turn to if he was required to leave his present site. There is a likelihood that he would be faced with a roadside existence and his health would suffer.

Planning balance

21. At the start of considering factors in the planning balance I have borne in mind the requirements of the Public Sector Equality Duty.
22. Bringing together my conclusions on the main issues, I have found that while there is not a policy objection to the principle of the development proposed in this general countryside location, the proposal would have a significantly harmful effect on the appearance of this particular rural area as the form of development proposed would not reflect the present spacious and verdant character. Therefore there is conflict with HDPF Policy 25.
23. Moreover, I have found that the site is remote from services and facilities. It is not well served by public transport modes and the nature of surrounding local roads does not facilitate safe walking. Therefore, the development of a gypsy and traveller pitch here would not be in the interests of a sustainable pattern of development. The location of the site clearly conflicts with HDPF Policy 23.
24. I conclude that the proposal conflicts with the development plan in the form of the HDPF and that the policies I have mentioned above are broadly consistent with the NPPF and so these policies should not be reduced in weight on this basis.
25. To be balanced with these negative factors is the position that the Council cannot demonstrate a five year supply of gypsy and traveller sites in the district at the moment and that there is a significant level of unmet need for these sites. Further, it does not appear that there is much likelihood of the

³ APP/Z3825/C/16/3153910; APP/Z3825/C/16/3153915; APP/Z3825/W/17/3188942; & APP/Z3825/W/17/3188945

Council being able to resolve this problem though the plan-led system in the short or medium term and the issue will only be addressed in this period through decisions on individual planning applications.

26. However, it appears to me that the environmental concerns over visual impact and the remote location of the site should not be set aside as the latter is fundamental to the need to actively manage patterns of growth to facilitate sustainable development as set out in the NPPF. I find that the negative factors set out above mean that the proposal does not fulfil the social and environmental objectives of sustainable development and I conclude that the proposal conflicts with the NPPF overall when this is read as a whole.
27. I have also considered whether the proposal could be allowed for a temporary period pending further progress by the Council on the DPD, but it is not clear to me what time scale is involved and in any event the local environmental harm and impacts over the location of the site would continue in the meantime.
28. Overall, I conclude that the conflict with the development plan and the NPPF amount to significant adverse effects which significantly and demonstrably outweigh any other considerations applying, individually or taken together, including the personal circumstances put forward, and do not justify the grant of planning permission on either a permanent or temporary basis. Accordingly the appeal should be dismissed.
29. I recognise that such a decision will be an interference with the appellant's rights to use his land for a beneficial purpose, and on his uncle's aspirations to establish a home there. However, such rights are qualified ones and have to be balanced with other factors. I am satisfied that a refusal of permission on the planning merits of the proposal is reasonable and necessary in the public interest.

Conclusion

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

David Murray

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr M Green	Director, Green Planning Studio Ltd.
Mr D Lidbetter	Appellant
Mr J Brazil	Appellant's uncle and intended occupier.
Mrs R Lidbetter	Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

Ms T Dale, MRTPI	Senior Planner, Horsham District Council.
Ms H Sisson, MRTPI	Principal Planning Officer, Horsham District Council.

INTERESTED PERSONS:

Mr Kenny	Local resident
Mr Maggs	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Appeal decisions ref. APP/Z3825/C/16/3153910 *et al* re Kingfisher Farm, West Chiltington Lane, Billingshurst.
- 2 Extract from elevational drawing submitted with previous application - APP/Z3825/W/15/3136292.