The Planning Inspectorate

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Appeal Decision

Hearing held on 4 October 2011

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2011

Appeal Ref: APP/Z3825/A/11/2150329
Kingfisher Farm, West Chiltington Lane, Billingshurst, West Sussex, RH14 9DR

- 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 Maurice Black against the decision of Horsham District Council.
- The application Ref DC/10/1041, dated 2 July 2010, was refused by notice dated 9 March 2011.
- The development proposed is use of land for the stationing of caravans for residential purposes for 11 no. gypsy pitches together with the formation of additional hard standing and utility/day rooms ancillary to that use.

Decision

1. The appeal is allowed and planning permission is granted for use of land for the stationing of caravans for residential purposes for 11 no. gypsy pitches together with the formation of additional hard standing and utility/day rooms ancillary to that use at Kingfisher Farm, West Chiltington Lane, Billingshurst, West Sussex, RH14 9DR in accordance with the terms of the application, Ref DC/10/1041, dated 2 July 2010, subject to the conditions in the schedule.

Application for costs

2. At the hearing an application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

Preliminary Matter

3. The Council initially questioned the validity of the appeal as owners of the appeal site had not been served with the requisite notice. This has now been done. No interests would be prejudiced in proceeding to determine the appeal as the Council accepted at the hearing.

Main Issues

4. The main issues are:

   - Whether a need for site provision exists locally;
   - Whether the proposal, in combination with other pitches, would dominate the nearest settled community;
   - The effect of the proposal on the character and appearance of the surrounding area;

- Whether the site would be reasonably located for schools, shops and other local services and community facilities; and
- If harm arises, whether it is outweighed by other material considerations including the general need for and provision of sites, the availability of alternatives, the failure of policy and any personal circumstances.

Planning policy

5. Following an earlier announcement that he intends to revoke Circular 01/2006 *Planning for Gypsy and Traveller Caravan Sites*, the Secretary of State published a consultation document including a draft Planning Policy Statement in April 2011. In the Ministerial foreword he explains that the current planning policy for traveller sites does not work and that a new approach is needed. Whilst taking all of these matters into account the Circular remains in place and regard should still be had to it.

6. The substance of the new document gives an indication of the Government's intentions. Nevertheless, the consultation may prompt changes to the draft Statement so that only limited weight can be attached to its provisions. The Localism Act has now received Royal Assent and reflects the stated aim to revoke Regional Strategies. The practical effect of this would be negligible in this case as The South East Plan contains no gypsy and traveller polices. The draft National Planning Policy Framework does not mention gypsy and traveller sites and because of its status little weight should be attached to it.

Reasons

Whether a need for site provision exists locally

7. Policy DC32 of the General Development Control Policies Development Plan Document indicates that proposals for sites for caravans for gypsies and travellers will be granted planning permission subject to a number of criteria. This includes the stipulation that a need for site provision exists locally and is clearly demonstrated.

8. There is no specific definition of the term "locally" within the development plan. However, paragraph 3.138 comments that the Council will determine the need for additional pitches by having regard to the findings of the West Sussex Gypsy and Traveller Accommodation Needs Assessment (GTAA) published in 2007. This found a significant level of need for pitches across the study area and made recommendations for new permanent provision within individual local authorities. It contains no indication that need should be assessed across other, more discrete geographical areas. Consequently the appropriate basis for the assessment of local needs in accordance with Policy DC32 is over the entire District.

9. The GTAA recommended that 39 pitches be provided in Horsham by 2011. The partial review of The South East Plan regarding provision for gypsies and travellers is not proceeding but Table H7a set a requirement of a net additional pitch provision for the District of 50 to 2016. Neither of these figures is definitive but coupled with the results of the counts and the number of unauthorised sites they give a reasonable guide to the level of unmet need.

10. Since 2006 planning permission has been given for 7 permanent pitches. Outline permission has also been granted for new dwellings on a site at

Lamorna in Washington involving the cessation of traveller pitches. An application for 6 pitches at Penn Retreat may replace them. In any event, these individual decisions have not made major inroads in reducing need which remains significant. There is therefore no conflict with this part of criterion a) of Policy DC32.

11. The Council accepted that there is an unmet need across the District but maintains that in the light of emerging policy and the localism agenda that this should be identified and tackled on a Parish basis. Moreover, that the needs in Itchingfield Parish have been addressed for the time being by the grant of permanent permission for 4 pitches at Greenfield Farm, Valewood Lane which is about 150m from the appeal site. However, I have already indicated that limited weight should be attached to the draft Planning Policy Statement.

12. Furthermore, there is no suggestion that need assessments for gypsies and travellers should be made across small areas or that the number of pitches should simply be divided equally between the Parishes. The draft Statement refers to enabling local authorities to make their own assessment but it also mentions working collaboratively and maintaining an up-to-date understanding of accommodation needs as a whole. Whilst there might be discretion in how this is achieved gypsies and travellers are nomadic and may not have local connections. This could mean that some of those in need would be overlooked if Parishes were taken strictly as the place to assess this and to deliver sites.

13. For all these reasons emerging policy does not override the approach in the development plan. On that basis a need for site provision exists locally.

Whether the proposal, in combination with other pitches, would dominate the nearest settled community

14. The policy test on which this issue is based emanates from Circular 01/2006 and is carried forward into the draft Planning Policy Statement. The appeal site is within a rural location characterised by open land, blocks of woodland and tree belts in a gently undulating landscape. There is also a scattering of residential, agricultural and commercial development nearby. A little to the east is Barns Green but the proposed gypsy site would be clearly separated from this settlement and would not be 'read' as an extension to it.

15. There are 26 residential properties within a 500m radius of the appeal site. The 11 pitches proposed would therefore result in a 42% increase within this area. However, this is an incomplete assessment of what comprises the "nearest settled community". Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*, for instance, contains many references to the word "community" and implies that it is more about people than simply places. In any case, there are some 200 houses at Barns Green plus about 100 'outliers'.

16. Moreover, local people told me that the community covers a broad area but that it is good and strong. The Parish Council representative referred to 1,000 inhabitants within Itchingfield. In this context, the proposal would not swamp the community in a social sense because its scale in relation to what already exists could be readily absorbed. Even taking account of the pitches at Greenfield Farm the proposal would not be disproportionate compared to an existing community of this size.

17. Therefore, even in combination with other pitches, the proposal would not dominate the nearest settled community.

Effect of the proposal on the character and appearance of the surrounding area

18. The Council considers that the proposal would not have a material adverse impact on the visual amenities of the rural area. In view of the position of the main body of the site well back from West Chiltington Lane, the screening along the road frontage, the limited wider public views and the scope for further landscaping I agree with this analysis.

19. Circular 01/2006 establishes that rural settings are acceptable in principle for gypsy sites where they are not subject to special planning constraints. Whilst this implies that the countryside is bound to change it does not mean that sites should automatically be sanctioned.

20. Although the effect on the appearance of the area would be minimal the development would be large. There is a cluster of buildings nearby at Valewood Close and along Valewood Lane in addition to the pitches at Greenfield Farm. However, as described earlier, the surroundings are predominantly undeveloped. In combination the proposed caravans, day rooms, hardstanding and fencing would be a significant concentration of urbanisation that would detract from the intrinsic open nature of the countryside. In essence the size of the site would result in a negative impact on the character of the area although the degree of harm would not be great.

21. Nevertheless, there would be a conflict with Policies CP15 of the Core Strategy and DC1 and DC9 of the General Development Control Policies that generally seek to protect rural character.

Whether the site would be reasonably located for schools, shops and other local services and community facilities

22. Paragraph 65 of Circular 01/2006 says that in deciding where to provide for gypsy and traveller sites, local planning authorities should first consider locations in or near existing settlements with access to local services. However, that guidance is aimed at the provision of sites through allocations and, in any case, does not preclude them in other locations.

23. This issue is a reflection of the wording of criterion 1 of Policy DC32. The appeal site is located about 2.2km from Barns Green by road and 1.6km on foot. Barns Green is a Category 2 settlement as defined by Policy CP5 of the Core Strategy and contains a post office and village store, an infant school, a pub and a village hall. Itchingfield is 4.3km away by road and has a primary school. A greater range of facilities and services and transport links can be found at Billingshurst which is about 4.5km from Kingfisher Farm.

24. According to Planning Policy Guidance Note (PPG) 13: *Transport* cycling journeys under 5km have the potential to substitute for short car trips. Using that yardstick all of the above places would be within range of future site occupiers. Whilst some may be nervous about using the lanes to cycle on and they may not be suitable for young children there is no evidence that they are intrinsically unsafe for this purpose.

25. The shortest pedestrian route to Barns Green involves the use of a footpath to the north of the appeal site which is said to be impassable at certain times of the year. Nevertheless, going that way to the village would be less than 2km. This is the distance below which PPG13 indicates that walking has the greatest

potential to replace short car trips. Whilst the state of the footpath is a limiting factor it would not prevent the village from being accessed this way at all times. It would also be feasible to walk into Barns Green on foot via the roads. As is typical of rural areas these are quite narrow and unlit but are not so hazardous that this option should be entirely ruled out.

26. There are bus stops within about 500m of the site along West Chiltington Lane. These are served by two routes and there are further services from Barns Green. An hourly service might be good for a rural location but it is unlikely to replace car use for frequent journeys. That said, it does offer an alternative for any of those living at the appeal site without their own transport.

27. Paragraph 54 of Circular 01/2006 observes that local authorities should be realistic about the availability of alternatives to the car in accessing local services. In this case whilst private car use is likely to remain the predominant mode of transport future site occupiers would have a degree of choice. The site is not in a remote or isolated location as some services are quite close at hand. In the context of the provision of gypsy sites the proposed pitches would be reasonably located for schools, shops and other local services and community facilities in line with criterion 1 of Policy DC32.

28. Issues of sustainability should not only be considered in terms of transport mode and distance from services. A settled base for gypsies would bring about general and wider benefits of easier access to GPs and other health services and allowing any children to attend school on a regular basis. It would also potentially reduce the need for long-distance travel and environmental damage caused by unauthorised encampment.

29. There have been a considerable number of objections to the proposal which might make the achievement of a peaceful and integrated co-existence between the site and the local community seem unlikely. However, the experience at Greenfield Farm shows that over a period of some 7 years the family there has become accepted as part of the community having originally caused dismay by moving onto the land without permission. This shows that the initial reaction does not necessarily prevent integration from occurring.

30. Even if not ideal in terms of proximity to services the location of the appeal site is nevertheless a reasonable one. This is backed up by the broader facets of sustainability that would be realised. Furthermore, the Council has accepted the 4 pitches at Greenfield Farm and made a specific finding that the proposal was sustainable in the wider sense. This decision took account of the particular local connections that had been established but the sites are so close that it nevertheless supports the finding I have reached.

Other material considerations

General need for and provision of sites

31. An indication of the general need for sites in Horsham is set out at paragraph 9. This is significant. The GTAA found a need for 90 pitches across the county (excluding Chichester) by 2011 but otherwise there is no detailed evidence about the situation in West Sussex or surrounding counties.

32. In terms of planned provision the Council undertook a Gypsy, Traveller and Travelling Showpeople Stakeholder Consultation in 2009. A sites study by consultants should be available in October 2011. A consultation version of the

Core Strategy Review is due to be produced in February 2012 and is intended to be accompanied by a Site Allocations Development Plan Document (DPD). It is accepted that there has been a delay in producing this because of various mitigating factors but there is no clear timetable for its adoption. The Council indicated, during the discussion regarding a possible temporary permission, that planning circumstances might reasonably be expected to change in 5 years time. This provides the best guide as to the likely pace of progress.

33. Although the Council maintained that it has been "pro-active" the allocation of suitable gypsy sites through the development plan process is therefore still some way off. The actual availability of pitches is even further into the future. The majority of the District is not the subject of national designations or other policy restrictions that might be an impediment to finding sites. That said, the prospect is that the significant need for sites is unlikely to be met soon and this weighs strongly in favour of the proposal.

34. The Council prides itself on following the plan-led approach and does not wish to see gypsy sites developed on an ad-hoc basis. That is all well and good but Circular 01/2006 also recognises that many gypsies and travellers wish to find and buy their own sites to develop and manage. The number of pitches proposed would account for a meaningful proportion of the level of need identified in The South East Plan. However, this should not stop individual sites from coming forward without undertaking a comparative analysis of their acceptability in planning terms. Indeed, as the Site Allocations DPD is not at consultation stage then resisting the proposal on the grounds of prematurity cannot be justified because of the further delay that would be imposed.

35. The intended occupiers of the site refer to various places where they have stayed recently including Micheldever, Wokingham, Woking, Cranleigh, Iver and Guildford. Consequently their links with the District are not obvious. However, applications should not be refused solely because the applicant has no local connections. Indeed, if that were a criterion then it would be likely to encourage gypsies to move onto sites without permission in order to establish them. In any event, the application is for a gypsy site and would contribute towards meeting the general need irrespective of whether future occupiers are currently staying in the District or not.

Availability of alternatives

36. There are 3 local authority sites in Horsham but these are full. Indeed, there are no alternative suitable sites within or outside existing settlements where the identified local need could be met. This accords with criterion b) of Policy DC32 and is also a factor which supports the proposal.

Failure of policy

37. The intention of Circular 01/2006 was to increase significantly the number of gypsy and traveller sites with planning permission by 2011 in order to address under-provision. This aim has not been met and to this extent there has been a failure of policy. However, the implications arising from this are reflected in the on-going need for sites and the lack of alternatives. I have also already found that the response in terms of the delivery of planned sites is unlikely to be swift. I therefore attribute little weight to this factor in itself.

Personal circumstances

38. The biographies of the intended site occupants indicate that there are some with specific health needs and also that there would be children living on the site for whom receiving an education is important. Some are related to one another. These factors attract limited weight.

Other Matters

39. The Highway Authority raises no objections with regard to visibility from the entrance. Furthermore, there is no record of significant accident issues along West Chiltington Lane and Bashurst Hill in the 3 years to 2009. It is expected that both roads should be able to cope with the likely level of traffic. As a satisfactory means of access can be provided and as the existing highway network is adequate to serve the site there would be no conflict with criterion 2) of Policy DC32. A turning space would be laid out in line with criterion 3).

40. The proposed caravans would be well separated from the nearest neighbouring development so that there would be no direct adverse effect on living or working conditions. There is no firm evidence that the appeal site contains protected species or habitats. Due to the clay soil there is local concern about drainage problems based on experience elsewhere and particularly about run-off into Valewood Lane which is hazardous when it freezes. However, there are no technical objections subject to details of both foul and surface water drainage being provided. Since the appellant also owns adjoining land to the south-west there is no reason to suppose that a solution could not be devised.

41. At the hearing a resident questioned the adequacy of electricity but a 3 phase supply is already in place. In any event, the matter of services could be covered through a site license. It was also said that there are no places for children in the local school. However, the County Council advise that there is capacity for additional pupils in the Billingshurst education locality.

42. The Council questioned whether the size of the site would be too large for intended occupiers. However, the largest group (32%) interviewed in connection with the GTAA wanted a maximum number of 11-15 pitches. In addition, the Stakeholder Consultation supported sites of between 4 and 12 pitches. The Good Practice Guide on *Designing Gypsy and Traveller Sites* (DCLG, 2008) comments that sites should ideally consist of up to 15 pitches in capacity. The proposal would fall within all of these parameters and so could be expected to provide a reasonable environment for those living there.

43. As the appellant owns the remainder of the field there is some apprehension that the number of pitches might increase. However, the proposal is for 11 pitches as shown and has to be considered on that basis. Any decision in this case does not send out a signal about what might or might not be acceptable nearby. Future applications would have to be determined on their own merits. Similar considerations apply to any expansion proposed at Greenfield Farm.

44. In summary, none of the other matters raised add to the objection already identified in relation to the character of the locality.

Overall balancing

45. The harm to the character of the area would not be great. On the other hand, the general need for sites in Horsham is significant and this is unlikely to be

addressed in the near future. There is currently a lack of available alternatives and because progress in making planned provision for sites has been slow this is likely to remain the case for some time to come. Taken together these factors and the benefits arising from meeting a proportion of the unmet need for gypsy sites at Kingfisher Farm outweigh the harm that would arise.

46. In reaching this view there is no need to take into account the personal circumstances of the potential occupiers or any human rights implications. Similarly there is no need to consider a temporary permission.

Conditions

47. A condition should be imposed limiting occupation of the site to gypsies. To minimise visual impact the caravans should be restricted to those applied for, the size of vehicles limited and commercial activities precluded. Details of any lighting to be installed should also be given. Further conditions regarding landscaping and its subsequent management, the external finish of the day rooms, fencing and the levels of the hardstandings and access road are necessary for a satisfactory appearance.

48. To ensure that the site operates properly details of refuse storage should be provided and the turning head laid out. As previously indicated a condition should be attached requiring drainage details. In a similar way to the advice in Circular 11/95 *The Use of Conditions in Planning Permissions* on annexes a condition is also necessary to control the use of the day room buildings. The suggested wording of the conditions has been modified, where necessary, to improve clarity and to better reflect The Planning Inspectorate's models.

49. The number of caravans per pitch would be restricted to 2 and given the limited visual impact there is no need to control their precise location. Touring caravans are sometimes used by gypsy families as 'overspill' accommodation and there is no good planning reason to prevent this. As fencing is to be provided and retained around the perimeter there is no purpose in restricting means of enclosure within the site. Parking would be available within the pitches and does not need to be conditioned. Given the distance to nearby housing, the nature and location of the development and the legislation to deal with any mud on the road conditions concerning hours of working, construction practices and wheel washing facilities are not necessary.

Conclusions

50. A need for site provision exists locally and the site would be reasonably located for schools, shops and other local services and community facilities. In these respects the proposal would accord with Policy DC32. Even in combination with other pitches the proposal would not dominate the nearest settled community. The harm that would be caused to the character of the area and the associated conflict with the development plan is outweighed by the other material considerations. In these circumstances the proposal represents an adequate way of meeting the established need in line with the second limb of criterion a) of Policy DC32. Therefore for the reasons given the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The site shall not be occupied by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

3) There shall be no more than 11 pitches on the site, as shown on drawing nos 09_312_005 & 006, with no more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) stationed on each pitch at any time of which only one shall be a residential mobile home.

4) No commercial activities shall take place on the site, including the storage of materials.

5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

6) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to installation. The works shall be carried out in accordance with the approved details.

7) The utility/day rooms hereby permitted shall only be used for purposes ancillary to the use of the land at Kingfisher Farm, West Chiltington Lane, Billingshurst as a caravan site.

8) No development shall take place until details of the colour of the render to be used for the external surfaces of the utility/day rooms hereby permitted as shown on drawing no 09_312_007 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and thereafter the buildings shall remain finished in the approved colour.

9) No development shall take place until details of the finished levels of the access road and hardstandings in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details

10) No development shall take place until details of the height of the fencing shown on drawing nos 09_312_005 & 006 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of the pitch to be enclosed and thereafter retained as approved.

11) The turning head shown on drawing nos 09_312_005 & 006 shall be provided prior to the occupation of any of the pitches and thereafter shall be retained solely for that purpose.

12) No development shall take place until details of storage provision for refuse and recycling have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of the pitches.

13) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. All approved planting shall be carried out in accordance with a timetable agreed in writing by the local planning authority. Any trees or plants which

die, are removed or become seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

14) No development shall take place until a landscape management plan including details of management responsibility and maintenance schedules for planting undertaken in accordance with condition 13) has been submitted to and approved in writing by the local planning authority. The landscape management plan shall be implemented as approved.

15) No development shall take place until details of sewage disposal and surface water drainage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of any of the pitches.

APPEARANCES

FOR THE APPELLANT:

Mr M Green BA	Partner, Green Planning Solutions LLP
Mr M Rudd	of Counsel
Mr M Black	

FOR HORSHAM DISTRICT COUNCIL:

Mrs V Cheeseman BSc (Hons) BTP MRTPI	Principal Planning Officer
Ms S Stallan BA (Hons) MPhil MRTPI	Senior Planning Officer
Mr G Williams	of Counsel

INTERESTED PERSONS:

Mrs M Williams	WS Planning
Mrs T Poulton	
Mr B O'Connor	for Itchingfield Parish Council
Cllr Mrs T Youtan	Ward Councillor
Ms S Dinneen	
Mrs V Robertson	

DOCUMENTS

1 List of potential site occupants
2 Witness statements from 9 potential site occupants
3 Secretary of State appeal decisions re land at Kites Nest Lane and Brownley Green Lane, Beausale (Refs: APP/T3725/A/10/2133713 & C/10/2133714)
4 Appeal decisions re land at Canal View, Cathiron Lane, Harborough Parva (Refs: APP/E3715/C/10/2140644, C/10/2139577 & A/10/2139572)
5 Summary closing submissions on behalf of the appellant