



Appeal Decision

Hearing held on 2 September 2008
Site visit made on 2 September 2008

by **Elizabeth Fieldhouse** DipTP DipUD
MRTPI

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

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Decision date:
11 September 2008

Appeal Ref: APP/J0215/A/08/2071409 197 Hitchin Road, Arlesey, Bedfordshire SG15 6SE

- 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 P Rooney against the decision of Mid-Bedfordshire District Council.
- The application Ref 07/01654/FULL, dated 17 September 2007, was refused by notice dated 15 January 2008.
- The development proposed is the change of use from dwelling to mixed use of dwelling and caravan site.

Decision

1. I allow the appeal, and grant planning permission for the change of use from dwelling to mixed use of dwelling and caravan site at 197 Hitchin Road, Arlesey, Bedfordshire SG15 6SE in accordance with the terms of the application, Ref 07/01654/FULL, dated 17 September 2007, and the plans submitted with it, subject to the conditions at the end of this decision.

Main issues

2. I consider the main issues in this appeal are whether Mr Rooney and his immediate family have gypsy status as defined in ODPM Circular 01/2006; the effect of the proposed development on the character and appearance of the surrounding area; and the effect on neighbouring occupiers' amenities, particularly with regard to noise and general disturbance.

Reasons

Gypsy status

3. At the time the application was considered by the Council, no detailed information on the appellant's nomadic lifestyle or on the status of the appellant's family was provided. As Mr Rooney now lives in the two storey house and appeared to have ceased travelling for none of the reason identified in ODPM Circular 01/2006, the Council concluded that his gypsy status within the terms of the Circular had lapsed. Therefore the proposal would not fall within the provisions of policy HO12 of the Mid Bedfordshire Local Plan First Review 2005 (LP).
 4. At the hearing, Mr Rooney indicated that he normally travelled away for work for roughly six months each year, mainly undertaking block paving or building
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work. Three of Mr Rooney's children and their families have been using the site for their touring caravans in the past four years but only two families are resident at any one time. At other times the families have been living on unauthorised sites or occupying a pitch on an authorised site while the normal occupants were away. The appellant stated that the three families are registered with the doctor in Arlesey and the school age grandchild has attended school in Arlesey on and off for the past two years but there was no written confirmation. As the Council pointed out, it was not possible to verify these points as the information was not provided before the hearing.

5. From what I heard, unless proven otherwise, I consider that the appellant and his immediate family should be considered to have gypsy status within the terms of ODPM Circular 01/2006 and therefore the proposal would fall to be considered under LP policy HO12. Nevertheless, in view of the lack of opportunity for the Council to verify the information provided to demonstrate gypsy status, I consider that any planning permission should be temporary for three years, a period mentioned in the appellant's statement in relation to the consideration of sites to meet the identified need.

Character and appearance

6. The appeal site is outside the development limit of Arlesey and LP policy CS19 states that, other than when provided for in the Local Plan, development will only exceptionally be permitted in the countryside. LP policy HO12 provides that new gypsy sites should conform to the criteria that, among other points, require proposals to not be detrimental to the character and appearance of the area nor should the amenities of neighbouring residential property be unacceptably harmed. Sites should relate well to existing built development, although a location within a defined settlement envelope is not deemed essential. Sites should also not be poorly related to community facilities and public transport. As gypsy sites are provided for in LP policy HO12, I do not consider that the exception test in policy CS19 needs to be met.
7. The appeal site lies on a bus route close to the development limit of Arlesey that is a settlement with community facilities. Therefore the appeal site meets the provisos after the criteria in LP policy HO12. The appeal site lies outside any nationally recognised countryside designation and is hard surfaced. At the time of my visit, there were no mobile homes and only one small touring caravan on the site although the appellant acknowledges, and as evidenced in representations, in the past caravans have been sited on the land.
8. The Council accepts that the site is relatively well screened with the only views from public vantage points being through the gate from the road. These views would generally be fleeting as the Hitchin Road is straight and derestricted outside the appeal site. Nevertheless, I consider that the site could become more visible if trees, particularly conifer trees or fruit trees within the neighbouring properties were lost. Both of these areas are outside the appellant's control. The proposed siting of the caravans would leave sufficient space for some planting along the boundaries of the appeal site so that glimpses of caravans would be broken up if other screening were lost. I am satisfied that this could be required by condition.

9. The proposed siting of the caravans would intensify and increase the apparent development in the countryside but, in view of the lack of public visibility and the existing hard surfacing, I consider that the character would essentially remain the same if the development becomes authorised. The proposed use would not extend outside the domestic curtilage of 197 Hitchin Road, although there is access through the curtilage to an open field that the appellant owns. Subject to appropriate landscaping, I consider that the proposal would not be detrimental to the character and appearance of the surrounding countryside and LP policy HO12(i) would be met.

Neighbouring occupiers' amenities

10. The appeal property is a detached house but the curtilage adjoins that of Fountain Cottage. Although parts of the neighbouring rear curtilage appeared to be directly linked to the field, I am not convinced that the use of the rear part of the garden was no longer part of the domestic curtilage. The caravans would replace an existing brick built shed near the boundary with Fountain Cottage and would occupy roughly half of the rear garden to no.197. The caravans would be sited about 3m from the mutual boundary with Fountain Cottage and door openings would be away from that boundary. As shown on the site layout plan, I consider that the proposed caravans would screen much of the activity associated with the use from neighbouring occupiers.
11. There is activity associated with accessing the field and the storage of vehicles in connection with the appellant's business and domestic uses that extends into the rear of the domestic curtilage. I consider that the use would change the activity near the rear of the neighbouring curtilage. Nevertheless, in view of the existing level of activity, the proposed siting of the caravans and providing boundary fencing and planting is adequate, in my opinion, the change would not be so great as to unacceptably harm neighbouring occupiers' amenities. Nonetheless, I saw that part of the boundary fencing is of insufficient height to prevent some overlooking but adequate boundary fencing/walling strengthened by planting would prevent overlooking and could be required by conditions. Subject to adequate boundary treatment and planting, I consider that the provisions of LP policy HO12(iii) would be met.
12. The Council do not find harm from the proposal in relation to any of the other criteria in LP policy HO12 and I heard and saw nothing to make me take a different view. For the reasons given, I conclude that the provisions of LP policy HO12 would be met and the appeal should be allowed.

Other material considerations

13. LP policy HO12 does not require a need to be proven to justify the grant of planning permission although explanatory paragraph 13.13 3 indicates that the Council has experienced some pressures for small scale development of land for gypsy sites usually to serve the needs of the individual family. In this case it is the needs of Mr Rooney's family that have been put forward to justify the siting of caravans and would be met by the proposal. Therefore I consider that the use should be tied to the justification for the development.
14. The Council are preparing the Gypsy and Traveller Development Plan Document to address the needs identified in Bedfordshire and Luton Gypsy and Traveller Needs Assessment and identified in the East of England Plan. Five sites for 22

pitches are being taken forward into the draft submission document to be consulted upon. One of the sites is in Arlesey fairly near the appeal site. While I note the contents of the emerging plan, it is at an early stage and does not alter my view on the acceptability of the proposal in relation to the development plan policy that is currently saved, LP policy HO12.

Conditions

15. I have considered the conditions discussed at the hearing in the light of the advice in Circular 11/95. As indicated in paragraph 5, I consider a temporary planning permission would be appropriate. To prevent harm to the character and appearance of the area and neighbouring occupiers' amenities and to fall within the provisions of LP policy HO12, I consider the number of caravans should be restricted and occupied only by gypsies, there should be no commercial or industrial activity on the land or materials stored outside, external lighting should be controlled, boundary fencing and planting agreed and the caravans sited in accordance with the site layout plan. To ensure that the site is properly drained, details should be agreed with the Council. As indicated in paragraph 13, the use should be restricted to Mr Rooney's immediate family. Nevertheless, as the use has commenced, no commencement condition is necessary.

Elizabeth Fieldhouse

INSPECTOR

Conditions:

- 1) The use hereby permitted shall be discontinued and the land restored to its former condition on or before 3 years from the date of this decision in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
- 2) No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites 1968 (of which no more than two shall be a static caravan or mobile home), shall be stationed on the site at any time.
- 3) The caravans shall only be occupied by members of Mr Rooney's immediate family and their dependants.
- 4) This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.
- 5) No commercial or industrial activities shall take place on the land, including the storage of external materials.
- 6) Within 3 months of the date of this decision, details of foul and surface water drainage, including a timetable for its implementation, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved timetable.

- 7) Within three months of the date of this decision, details of all external lighting shall be submitted to and approved in writing by the local planning authority. All external lighting shall be in accordance with the approved scheme.
- 8) Within 3 months of the date of this decision, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority, which shall include details of boundary treatment and planting, including a timetable for implementation. Boundary treatment and planting shall be implemented in accordance with the approved timetable. Any trees or plants which within a period of 3 years from implementation die, are removed or become seriously damaged or diseased 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.
- 9) The caravans shall be sited in accordance with the submitted site layout plan unless otherwise agreed in writing with the local planning authority.

APPEARANCES

FOR THE APPELLANT:

Philip Brown BA(Hons) MRTPI Agent
Mr Rooney Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mark Spragg BA(Hons) MRTPI Mid Beds District Council

DOCUMENTS

- 1 Notification letter of time and venue of hearing

PLANS

- A Application plans
- B Local Plan Proposals Map of Arlesey and surrounding area