
Appeal Decision

Hearing held on 21 July 2015

Site visit made on 21 July 2015

by **J A Murray LLB (Hons), Dip.Plan.Env, DMS, Solicitor**

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

Decision date: 18 August 2015

Appeal Ref: APP/P0240/W/15/3004755

Land rear of Twin Acres, 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 Larry Connors against the decision of Central Bedfordshire Council.
- The application Ref CB/14/02124/FULL, received by the Council on 29 May 2014, was refused by notice dated 28 August 2014.
- The development proposed is the change of use of land to use as a residential caravan site for 10 traveller families, including laying of hardstanding and erection of amenity building.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Background

1. The appellant confirmed during the Hearing that his intention is to limit the total number of caravans on the appeal site to 10, regardless of whether they are static or touring caravans. I was told that, as many travellers only travel during the summer months, it is now common to buy a touring caravan at the start of the summer and then to sell it at the end. In any event, any site occupant who kept both a static caravan and a touring caravan could store the tourer off site.
2. Whilst the grounds of appeal had listed the intended occupiers, I was advised at the start of the Hearing that they may not actually be the occupiers. In any event, the appellant was not relying on the specific needs or personal circumstances of those people identified, but rather on the general need for gypsy and traveller accommodation. I was asked to determine the appeal on that basis.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would pose an unacceptable risk in terms of highway safety, having particular regard to the lack of footway provision on Hitchin Road;
 - whether the proposal would represent sustainable development; and
 - the current and future levels of provision and general need for gypsy/traveller sites in the local area.

Reasons

Character and appearance

4. The appeal site lies in the countryside to the west of Hitchin Road and some 500m to the south of the small town of Arlesey. The appellant owns land between Hitchin Road and the main East Coast Railway line to the west. With the benefit of planning permission, the part of that land nearest the road is already in use as a gypsy and traveller site for up to 6 caravans and indeed the appellant occupies that land. The proposal would effectively extend that site some 65m to the west, providing pitches for an extra 10 caravans and an amenity building. A gap of around 150m would then remain between the proposed site and the fence separating the appellant's land from the railway. At the time of the Hearing, that area was covered with hard core. There was also a mobile home on it, some shipping containers and stored building materials. Development on that area to the west of the appeal site is unauthorised and there has been some enforcement action in the past. At the Hearing, the Council said that further action is under consideration and, at the site visit, I saw that part of this hard core area had been covered with soil. In any event, I am only considering the appeal site and its impact.
5. Hitchin Road is a busy, straight road, with a 60mph limit and double yellow lines. There are open fields to the East of Hitchin Road and immediately to the south of the appeal site are fields associated with Hollow Tree Farm. To the north lies the dwelling and land at Adenville Farm. Another field then separates that dwelling from an authorised gypsy and traveller site at 197 Hitchin Road to the north. The Council's January 2014 Gypsy, Traveller and Travelling Showperson Accommodation Assessment (GTAA) says that site has 10 authorised pitches. Although the prevailing character of the area is predominantly rural, established gypsy and traveller sites contribute to it.
6. Planning policy for traveller sites (PPTS) allows for gypsy and traveller sites in rural or semi-rural settings, but also seeks to protect amenity and the environment. In terms of the impact on the character of the area, given that gypsy and traveller sites already feature, the proposed site would not be unduly at odds with that character.
7. Turning to the appearance of the area, given the mature hedge along Hitchin Road, the existing and proposed boundary treatment on the appeal site and mature trees and buildings to the north, there would be no significant views of the development from Hitchin Road, except through the entrance to the appellant's existing caravan site. However, having regard to the proposed layout, this would be limited to the eastern gable end of the single storey amenity building, which would be sited adjacent to the southern boundary fence and hedge.
8. The proposed development would be seen by passengers on the East Coast main line, from where it would be perceived as an extension to the existing, relatively small site. I regard the railway line as an important public vantage point, even though passengers would normally be passing at speed. However, the site would be reasonably spacious, with a generous grass play area in the centre. There would be further grassed areas around the pitches and new boundary hedges to the south and west and a condition could require full details of a landscaping scheme to be submitted for approval. These factors would ensure that the development is suitably assimilated into the rural

- setting, especially since the site would be set back around 150m from the railway and not nearly as close as the authorised site at 197 Hitchin Road. Furthermore, bearing in mind that the proposal is limited to a total of 10 caravans of any type, the planned layout is spacious and, with its substantial central grass play area, it would be more open than the approved site at No 197, which can be seen in the recent aerial photograph produced by Councillor Dalgarno at the Hearing¹. PPTS paragraph 24 says weight should be attached to sites being well planned and landscaped in such a way as to positively enhance the environment and increase openness.
9. That said, it would be hard to conceive in practice of a caravan site that would not have some detrimental visual impact on a rural area, given the siting of caravans and the provision of hardstandings and utility buildings. Nevertheless, such sites are not uncommon in the countryside and development plan policies should be interpreted in the context of that reality and the question is essentially whether there would be significant or material harm.
 10. Taken together Policies DM3, DM4, CS14 and CS16 of the Central Bedfordshire Core Strategy and Development Management Policies (CSDMP), adopted November 2009, require all development to: be appropriate in scale and design to its setting; contribute positively to creating a sense of place and respect local character, context and distinctiveness; to be of the highest quality; and to conserve and enhance the character of the countryside.
 11. The only development plan policy which specifically concerns new gypsy sites is saved Policy HO12 of the Mid Bedfordshire Local Plan Review (LPR), adopted December 2005. Among other things, this says they should not be detrimental to the character and appearance of the surrounding countryside and sites *should relate well to existing built development, although a location within a defined settlement envelope will not be deemed essential*. PPTS does not explicitly require new sites to relate well to existing built development. It allows for gypsy and traveller sites in rural and semi-rural areas, whilst stating that they should respect the scale of and not dominate the nearest settled community. Though reasonably close to Arlesey, the Council acknowledged that the proposed site would not dominate it. The nearest existing built development is at Adenville Farm to the north. Having regard to the extent and layout of built development on that site² and the extent of existing and proposed vegetation and landscaping, the appeal scheme would relate well to that built development.
 12. Given the proximity of existing approved gypsy and traveller sites; the very limited views of the proposed development from Hitchin Road; its separation from the railway line; its scale, reasonably spacious layout and scope for landscaping; and its relationship with existing built development, I conclude on the first main issue that the proposal would have no significant detrimental impact on the character or appearance of the area, so as to result in conflict with PPTS, LPR Policy HO12, or CSDMP Policies DM3, DM4, CS14 and CS16. *Notwithstanding the rural location, any modest detrimental impact would not justify dismissal of the appeal.*

¹ Hearing document 1.

² Ibid.

Highway safety, having particular regard to the lack of footway provision

13. As indicated, Hitchin Road is a busy main road, with a 60mph speed limit. Between the appeal site access and Arlesey to the north, there is no footway for the first 250m or so. Although there is a narrow verge, it is not adequate to facilitate safe or convenient pedestrian access. Whilst Arlesey is within easy cycling distance, the Highway Authority's representative said that vehicle speeds are high, as Hitchin Road is wide and straight, and he would not therefore advocate cycling. Given the short distance to Arlesey, cycling may still be a reasonable option for some, but may well be unsafe for others, especially children.
14. In so far as LPR Policy HO12 requires a safe, convenient and adequate standard of access, including provision for pedestrians, the proposal gives rise to some conflict with it. CSDMP Policy DM3 also requires proposals to incorporate "appropriate access and linkages, including provision for pedestrians..." However, there is no requirement in national policy to provide pedestrian links to gypsy and traveller sites. Government policy envisages such sites in rural areas, where providing footpath links will often be impractical or inappropriate. Paragraph 29 of the Framework acknowledges that "different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas". This is echoed at paragraph 34. Accordingly, in so far as there is conflict with Policy HO12, national policy constitutes a material consideration to weigh against that and there is no real conflict with Policy DM3, as footpath provision is not "appropriate" in this rural location.
15. In terms of pedestrian safety, the Highway Authority view is that residents would be tempted and likely to walk into Arlesey, because of its proximity. This is in contrast to appeal Ref APP/J0405/C/13/2193582 concerning a site at Slapton in Buckinghamshire (the Slapton appeal), where the distances meant walking was not a serious option. I accept that there is a residual risk that occupiers of the site might walk on the road for 250m or so to get to the footway to the north and this would be potentially dangerous. However, common sense would discourage that course and, in any event, there is already a gypsy and traveller site here, for which the Council granted permission.
16. I note local residents' references to "near misses" involving vehicles entering or leaving the appellants' existing traveller site. However, at the Hearing, the Highway Authority representative confirmed his view that there is no justifiable reason to raise or sustain a highway objection for safety reasons, save that it would be unsafe for occupiers of the site to walk into Arlesey. I acknowledge residents' concerns, but, having regard to the Highway Authority's expert view and my own inspection, I am satisfied that vehicular traffic to and from the site would not create a significant risk. Clearly, the proposal would increase vehicle movements, but there are no records of serious accidents, even though the existing site has been operating for some time.
17. For all the reasons given, I conclude on the second main issue that, notwithstanding some conflict with LPR Policy HO12, the proposal would not pose an unacceptable risk in terms of highway safety, having particular regard to the lack of footway provision on Hitchin Road.

Sustainability

18. In terms of sustainability, the Council is principally concerned with the lack of safe pedestrian access to services and facilities and the consequent reliance on the private car. Given that safe pedestrian access is unavailable, I acknowledge that residents would be largely reliant on the car. However, PPTS accepts the principle of gypsy and traveller sites in rural areas and of course the Council has already granted permission for the existing 6 pitch site in this location. Paragraph 11 of PPTS sets out the factors relevant to the sustainability of gypsy and traveller sites. Aside from promoting access to health and education services, it makes no reference to the distance from services, and merely advocates reducing the need for long distance travelling. The Framework indicates that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Even if it were considered that the appeal scheme, either on its own or together with the existing site, would generate significant movements, the proximity to Arlesey is such that the need to travel would be minimised, in terms of the length, if not the number of journeys. Furthermore, PPTS notes that the provision of a settled base, in itself, can reduce the need for long distance travelling.
19. In the Slapton appeal, the site was in the countryside some 800m from a hamlet with no services, 1.5km from the village of Slapton, 2 - 3 km from the larger village of Cheddington and 5km from the town of Leighton Buzzard, where most amenities essential for day-to-day living were located. The Inspector found that the occupants would rely on private motor vehicles to reach most amenities and that it would be unpleasant, if not hazardous to walk to the nearest bus stops or the railway station, as there was no footway and only an overgrown verge and fast moving traffic. She nevertheless found that the site was not unduly far from local services and it is not unusual for country dwellers to rely on the private car. The same conclusion applies with even greater force in this case, where the site is much closer to significant services.
20. PPTS paragraph 11 says sites should not be located in areas at high risk of flooding. Local people raised concerns about flooding on the site and Councillor Dalgarno submitted a photograph of standing water on adjacent land, which was taken in early 2015³. However, a suggested condition requires details of proposals for surface water drainage to be submitted for approval and the appellant said his neighbour has overcome standing water issues by installing drainage pipes. In any event, the site is in Flood Zone 1 and there is no objection from the Environment Agency or the Internal Drainage Board.
21. Paragraph 11 of PPTS also says policies should provide for proper consideration of local environmental quality and Policy GT5 of the G&T LP indicated that sites should not be in an area immediately adjacent to railway lines or water bodies. The site is about 150m from the railway but, whilst the Council's Pollution Officer recommended that an informative be attached to any permission advising that railway noise may cause detriment, the appeal site is not as close to the railway as the site at No 197 Hitchin Road. My experience during the site inspection did not give me undue cause for concern on this score.

³ Hearing document 3.

22. There is also a body of water known as the Blue Lagoon in a field some distance to the east of Hitchin Road, which Town Councillor Kathy Lindscog said is a notorious hazard. However, the G&T LP has been withdrawn and in any event the site is not immediately adjacent to the railway or the Blue Lagoon and there is a suitable fence between the appellant's adjoining land and the railway. From maps it appears that the Blue Lagoon could be accessed by anyone determined to get to it via a track to the north, but it would not present an immediate risk to occupiers of the proposed site.
23. PPTS paragraph 11 also says undue pressure on local infrastructure and services should be avoided and Arlesey Town Council is concerned about the pressure on local schools and the medical centre. However, in the absence of any objections or comments from the education and health authorities, there is no clear evidence that the proposal would place undue pressure on infrastructure and services.
24. In terms of the remaining sustainability factors set out in PPTS paragraph 11, unauthorised camping is not conducive to peaceful and integrated co-existence between travellers and local settled communities. The provision of an authorised and properly regulated site can reduce the likelihood of unauthorised camping. In addition, there is no reason to conclude that this location would not facilitate access to appropriate health services, or enable children to attend school on a regular basis.
25. In all these circumstances, I conclude on the third main issue, that the proposal would constitute sustainable development.

Need

26. PPTS Policy H states that relevant matters to be considered when determining planning applications for gypsy and traveller sites include the existing level of local provision and need for sites. Paragraph 9 of PPTS requires local planning authorities to identify and update annually, a five-year supply of deliverable gypsy and traveller sites. Although the Council prepared the Central Bedfordshire Gypsy and Traveller Local Plan (G&T LP), that plan has been withdrawn and there are no allocated sites. The GTAA identified a backlog of 35 pitches as at January 2014. Having regard to that, and applying a 2% household growth rate, it identified a requirement for 54 pitches for the period 2014 – 2019 and 30 pitches for 2020 – 2024.
27. The Council accepted at the Hearing that, taking those figures, the requirement over the next 5 years, i.e. to 2020, would be 60 pitches (i.e. 54 + 30/5). However, as planning permission has been granted for 14 pitches since the GTAA, it was agreed that the current backlog is 21 pitches and the requirement up to 2020 is now for 46 pitches. The appeal scheme would almost halve the backlog, but there are still no allocated sites and no other sites with planning permission, or which could otherwise be considered deliverable.
28. LPR Policy HO12 does not allocate sites and does not promote the development of private sites. Whilst Policy 33 of the emerging Development Strategy for Central Bedfordshire, Revised pre-submission version (DS) June 2014 states that the G&T LP sets out how the Council will meet the accommodation needs of gypsies and travellers, the G&T LP has been withdrawn. Furthermore, the Inspector charged with examining the DS has indicated his view that the Council had not complied with its duty to co-operate. I was advised that the

Council is seeking leave for a Judicial Review of that determination in the Court of Appeal (leave having been refused in the High Court). Whilst the DS has not been withdrawn, I cannot be confident of whether, or in what form, that plan will be adopted and its policies cannot therefore carry significant weight.

29. In any event, DS Policy 33 states that applications for windfall gypsy and traveller sites will be considered: "having regard to the unmet level of need." It adds: "Relevant and up to date guidance will inform this process." I have already identified the level of unmet need and relevant and up to date guidance is contained in PPTS. There is no policy mechanism to address the under-supply of sites.
30. It is clear that there is a significant unmet, immediate need for gypsy and traveller pitches and the Council indicated at the Hearing that it is unlikely to have allocated sites in an adopted plan before February 2018, so that sites are unlikely to be provided within 5 years. As a matter of policy the absence of an up-to-date five-year supply of deliverable sites is a significant material consideration in applications for temporary permission, by virtue of paragraph 25 of PPTS. However, this factor is capable of being a material consideration in any case and in another appeal Ref APP/P0240/A/12/2179237, concerning a site within Central Bedfordshire, the Secretary of State concluded that the need for sites carried considerable weight and the failure of policy was also afforded significant weight. That must remain the case today.
31. I conclude on the fourth main issue that there is an immediate need for sites and a lack of a five-year supply, with no policy mechanism to address these problems and these factors carry significant weight.

Other matters

32. A number of representations were made about mobile homes on the appellant's existing site being advertised for rent generally and these raised concerns that he was using the less restrictive planning regime for gypsy and traveller sites to establish a caravan site available to the general public. Indeed, the Council produced an extract from www.rightmove.co.uk⁴ showing a mobile home for rent on Hitchin Road, albeit with a note that the property "has been removed by the agent."
33. The appellant denied advertising any of his caravans for occupation other than by gypsies and travellers, but acknowledged that the photograph in the rightmoves details appeared to be of one of his caravans. Whatever, the explanation for this, the existing site is subject to a standard condition restricting occupancy to gypsies and travellers, and the proposed development would be restricted to occupation by gypsies and travellers, as defined by Government guidance. Any breaches of the standard condition could be subject to enforcement action. Enforcement action is not always straightforward, but I am satisfied that the standard condition is enforceable. Accordingly, any past breaches, or fears of possible future breaches, would not justify dismissal of the appeal.
34. The Town Council also questioned whether there is adequate provision for vehicles on site. However, in view of the appellant's acceptance of a limit of

⁴ Hearing document 5.

10 caravans, whether static or touring, the proposed layout shows adequate space for vehicles.

35. The site would be subject to the Caravan Sites licensing regime but, having regard to the proposed layout plan, there is nothing to indicate that the standard licence conditions could not be met.
36. Councillor Lindscog felt that this development could set a precedent and lead to a proliferation of requests for the expansion of this site. However, any such proposals would have to be assessed on their merits having regard to all material considerations. These would include their visual impact in view, for example, of their proximity to the railway, and the question of dominance relative to Arlesey. These would be matters for the Council to judge.

Planning balance and overall conclusion

37. I conclude that the proposed development would cause no unacceptable harm to the character and appearance of the area, or in relation to highway safety. Whilst the absence of footway provision leads to some conflict with LPR Policy HO12, the requirement for pedestrian links is not consistent with Government policy. The development would comply with the Framework, PPTS, the remainder of saved LPR Policy HO12 and CSDMP Policies DM3, DM4, CS14 and CS16, which should prevail in my view. Furthermore, the development would be sustainable and it would provide 10 pitches where there is an immediate need for sites and no five-year supply.
38. In all the circumstances, I am satisfied that the appeal should be allowed and permission granted, subject to conditions.

Conditions

39. In addition to the usual time limit on commencement of development, it is necessary to limit occupation of the site to gypsies and travellers. This is because the proposal is only acceptable in the countryside because of the special accommodation needs of gypsies and travellers.
40. To ensure a spacious layout and to limit the impact of the development on the character and appearance of the countryside it is necessary to restrict the number of caravans on the site to 10. However, in the interests of precision, I will refer to the relevant legislation to define caravans.
41. To further protect the character and appearance of the area and the living conditions of nearby residents and to prevent pollution, it is necessary to prohibit commercial activities and to require the submission and approval of a scheme detailing foul and surface water drainage proposals; landscaping; boundary treatment; waste storage and collection arrangements; and external lighting. To ensure that the requirement for external lighting details has practical effect, it is necessary to add a provision that no external lighting shall be installed, other than that which is approved. As far as boundary treatment is concerned, whilst the Council's suggested condition focused on the northern and southern boundaries, I will also refer to the western boundary, given that the railway line is the main public vantage point and drawing CBC/002 indicates new hedge planting on that boundary anyway.

42. The Council agreed that I need not include its suggested provisions concerning an appeal if submitted details are not approved, as they are only necessary in retrospective cases.
43. The Council agreed at the Hearing that its suggested condition concerning vehicle parking and manoeuvring areas is unnecessary, as these are detailed on the submitted plans. For the avoidance of doubt and in the interests of proper planning, I shall require the development to be carried out in accordance with specified submitted plans.
44. Although the Council's list of suggested conditions did not address this, there is currently a large brick kennel building in the south west corner of the site. This is not shown on the submitted plans and the appellant acknowledged during the Hearing that it would need to be removed. I am satisfied that this is necessary to ensure the spacious layout and satisfactory appearance of the development. I will require its removal prior to first occupation of any of the caravans on the site.

Decision

Appeal Ref: APP/P0240/W/15/3004755

45. The appeal is allowed and planning permission is granted for the change of use of land to use as a residential caravan site for 10 traveller families, including laying of hardstanding and erection of amenity building at land rear of Twin Acres, Hitchin Road, Arlesey, Bedfordshire, SG15 6SE in accordance with the terms of the application, Ref CB/14/02124/FULL, received by the Council on 29 May 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: CBC/001, CBC/002, CBC/003 and CBC/004.
 - 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites, March 2012, or any subsequent guidance.
 - 4) No more than 10 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended) shall be stationed on the site.
 - 5) No commercial activities shall take place on the site, including the storage of materials.
 - 6) No development shall take place until a scheme detailing:
 - (i) proposals for foul drainage of the site;
 - (ii) proposals for surface water drainage of the site, based on the site having no impervious areas;
 - (iii) a detailed landscaping scheme for the site, in particular on the northern and southern boundaries of the site;
 - (iv) boundary treatment of the site, specifically along the southern, northern and western boundaries of the site;

- (v) waste storage and collection points; and
- (vi) any external lighting

has been submitted to and approved in writing by the local planning authority and the said scheme shall include a timetable for the implementation of its various components. The development shall be carried out in accordance with the approved scheme and timetable and no external lighting shall be installed unless it is part of the approved scheme.

- 7) The residential use shall not commence and none of the caravans on the site shall be occupied until the existing brick kennel building in the south western corner of the site has been demolished and the resultant materials have been removed from the site.

J A Murray

INSPECTOR