
Appeal Decision

Hearing held on 11 March 2014

by Bridget M Campbell BA(Hons) MRTPI

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

Decision date: 15 April 2014

Appeal Ref: APP/Y3940/A/14/2211452

Dillons Farm, Dean Road, East Grimstead, Salisbury SP5 3SD

- 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 Murphy against the decision of Wiltshire Council.
- The application Ref 13/03834/FUL, dated 2 September 2013, was refused by notice dated 20 November 2013.
- The development proposed is "change of use for residential occupation of caravans for a gypsy/traveller site".

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

Preliminary matters

Costs

1. At the Hearing an application for costs was made by Mr Murphy against the Council. This application is the subject of a separate Decision.

Clarification of application

2. The appeal was lodged in the names of Messrs David and Dale Murphy. The right of appeal under s78 of the Act is limited to the person or persons who applied for planning permission. In this case the application form simply says "c/o Agent". However, a letter submitted as a supporting statement to the application gives the name of the applicant as Mr Murphy. At the hearing it was agreed by both parties that this referred to Mr David Murphy. That being the case, the appeal will proceed in his name.
3. The development as described by the Council in its decision notice is materially different to that given on the application. It suggests the property is already a gypsy site. No such lawful use is claimed by the Appellant. Whilst Mr David Murphy does say he has lived on the site for 20 years, he does not allege that the use has become lawful with the passage of time since he acknowledges that he sought to hide his residential occupation from the Council. It is common ground that residential use is not lawful.
4. At the hearing it was suggested that the Appellant's description of the proposed development might be made clearer and in this respect the following was agreed as appropriate: *Change of use to a residential gypsy site involving the occupation of two caravans and the erection of an amenity block.*

The appeal site

5. For clarification, the Appellant owns a rectangle of land of a little over 2ha stretching between Dean Road to the north and a railway embankment to the south and with a field to either side. The majority is pasture used for the grazing of his horses. The residential "enclosure" (the appeal site), sits towards the front of the property behind the line of the former canal running along the site frontage. It extends across about half the width of the site from the western boundary and is well delineated. The property itself is well defined by hedgerows and mature vegetation so that public views into it are limited. Solid double wooden gates secure the access.
6. There are two buildings on the site of long standing comprising a stable building and a barn. The former is used for storage as a utility/day room whilst the latter is used by the Appellant for his hobby of restoring traditional gypsy and showman's wagons. The two residential mobile homes proposed are also on the site. One is occupied by the Appellant and the other by his son. What remains to be implemented from the proposed development is the second utility block for the Appellant's son.
7. The site lies just outside the village of East Grimstead which is a small loose knit settlement. The nearest houses lie to the northern side of Dean Road, a short distance to the west

Gypsy status

8. The Appellant is in his late 50s and has stopped travelling for an economic purpose due to his poor health. He needs his son, Dale, on the site to take care of him and when Dale is away travelling, neighbours in the vicinity step in to provide care. Dale is a roofer who travels for this work from time to time but he also takes to the road each year with his colleague Mr Baker when they break horses for others along the way. Dale's wife, who is not a gypsy, and his children live in a house in Southampton which he visits. He chooses to live the traditional lifestyle, however, and needs to look after his father. His mobile home has sufficient bedrooms to enable the children to come and stay with him. There has been no suggestion that Mr David and Mr Dale Murphy are not gypsies and I find they satisfy the definition of gypsies and travellers for planning purposes as set out in Annex 1 of national guidance in *Planning policy for traveller sites* March 2012 (PPTS).

Planning policy and identification of the main issue

9. The PPTS requires local planning authorities to identify a five year supply of specific deliverable sites to meet locally assessed need and to identify a supply of specific developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15.
10. South Wiltshire Core Strategy (SWCS) which forms part of the Development Plan for the area predates that advice, having been adopted in February 2012. Policy CP4 identifies a need for 18 residential pitches to 2011 and indicates that sites will be identified within a Site Allocations DPD. Beyond that date, it says provision would either be compounded up or a further needs assessment undertaken. Prior to the adoption of the DPD, a set of criteria in the policy can be used to guide the determination of planning applications and to identify new pitches.

11. Only one of those criteria is at issue between the parties in this case and that is the first criterion which states "Preferably the site should be located within or close to a settlement as defined by the Sustainable Settlement Strategy". That Strategy is set out in policy CP1. East Grimstead is not a defined settlement. Alderbury, some three miles distant is defined as a secondary village where modest growth is provided for.
12. The SWCS is to be replaced by the Wiltshire Core Strategy (WCS) which is currently undergoing formal examination. Policy CP47 is entitled *Meeting the needs of Gypsies and Travellers*. Following concern expressed by the Examining Inspector, the Council has recently revisited and increased its proposed residential pitch requirements for South Wiltshire from 33 to 37 for the period 2011-16 and from 17 to 19 for the period 2016-21. The robustness of that assessment is a matter for the development plan process but it was common ground at the hearing that these figures are unlikely to go down.
13. The policy goes on to say that development should be situated in sustainable locations. Five criteria are set out which proposals must satisfy and it was agreed that these are unlikely to change prior to adoption of the Plan. Once again only one is an issue between the parties and that is criterion (iv) that the site is "located in or near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services".
14. East Grimstead is defined as a Small Village in the emerging WCS where policy CP1 limits development to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities Policy CP2 limits such development to infill within the existing built area and, in principle, supports development which seeks to meet local housing needs.
15. Against this background the main issue is whether the site is a suitable location for a gypsy site having regard to the settlement strategy for the area and distance from services and to its effect on the countryside and, if not, whether any harm is outweighed by other considerations.

Reasons

The settlement strategy and distance from services

16. Taking first the adopted SWCS, the appeal site is not located within or close to a settlement as defined by the Sustainable Settlement Strategy since East Grimstead is not defined in that Plan as a settlement. A strict application of policy CP4 would result in a conflict with this requirement. However, the criterion clearly allows for some exceptions to be made since it begins with the word "Preferably". It seems to me therefore that it recognises that there may be situations where, taking other matters into account, a site might be accepted that is not within or close to a defined settlement – failure to meet such a locational criterion is not necessarily fatal in terms of that policy.
17. Looking next at the emerging WCS, the Council argues that criterion (iv) of policy CP47 is not met because the site is not near to an existing settlement which offers a range of local services and community facilities. With respect, that is not the way the criterion is worded – it does not say the settlement itself which the site is to be in or near must contain the services and facilities. The criterion is poorly worded but I can put no other meaning on it than that

there are two parts to it: firstly, a site is to be located in or near to existing settlements; and, secondly, a site is to be located within reasonable distance of a range of local services and community facilities, in particular schools and essential health services.

18. There is no defined settlement boundary for East Grimstead but even so the site cannot be argued to be within the existing built area despite its loose knit nature. It is, however, very close to it so that it can be said to be located on the edge of it. In the emerging WCS, East Grimstead is to be identified as a settlement – a Small Village. Thus the site is located near to an existing settlement. The first part of the criterion is met.
19. Looking at the second part of the criterion “reasonable distance” is not defined in the Plan. The Council expressed the view that this should be less than a mile and on a route conducive to walking. Since the wording of the criterion says “in particular schools and essential health services” I consider the Council’s interpretation to be unduly restrictive. For example, to have to be within a mile of a school and with a route to it that would be attractive to walk would be severely limiting when trying to identify suitable sites.
20. East Grimstead is not a settlement with many facilities to offer. There is a church and village hall/reading room and the local community run their own free book exchange in the former telephone kiosk. The village does, however, have the advantage of being on a bus route, albeit that there are only 5 services a day and there is a bus stop within a short stroll of the appeal site.
21. Within some two to three miles of the site I was told there is a railway station connecting to Southampton and Salisbury, 4 shops including a post office, 3 primary schools, public houses, churches and a number of social clubs. In addition East Grimstead is served by school buses. It would be fair to say that the site lies within a reasonable distance of some, rather than a range of, facilities and services.
22. The site is not served by roads with footways but in my experience sites within the countryside rarely are. However Dean Road is on the national cycle network and the bus service and nearby railway station do offer an alternative to car journeys albeit limited. In my view, with these alternative modes of transport available, facilities and services further afield might be said to be within a reasonable distance of the site. Salisbury, some 7 miles distant offers a full range of services and facilities for day to day living.
23. To resist development in principle unless it is located close to a settlement offering a good range of services does not recognise that the emerging Plan specifically provides for some modest development at Small Villages such as East Grimstead to respond to local needs and to contribute to the vitality of rural communities (WCS para.4.16 and policies CP1, CP2). Such development would have a similar relationship to a good range of services as the appeal site.
24. The Council has drawn attention to paragraph 23 of the PPTS which, it says, emphasises the ‘in principle’ objection by reason of the location in the open countryside, remote from existing settlements and facilities.¹ I do not agree. Whilst the paragraph does say sites in the open countryside away from existing settlements or outside areas allocated in the development plan should be

¹ Council’s statement paragraph 5.10

strictly limited, this site is not “away from existing settlements”, it is on the edge of East Grimstead and there are no areas allocated for gypsy sites in the development plan. The provision of the appeal development responds to the local need for more sites in the South Wiltshire area – it is a local housing need (WCS policy CP2) albeit not for conventional bricks and mortar. The paragraph of the PPTS goes on to recognise that there will be sites in rural areas and seeks to ensure that they will not dominate the nearest settled community or place an undue pressure on the local infrastructure. This site, in effect for two pitches, would not do so.

Effect on the countryside

25. The appeal site is situated within a Special Landscape Area (SLA) which local designation, I was told, covers most of the eastern side of South Wiltshire and comprises pleasing undulating countryside. The Council has raised no concern about the site having any material harmful impact on the rural area and I find no reason to conclude otherwise. The residential component is compact and at the lower end of the Appellant’s property, the extent of which is defined by hedgerows. The frontage to either side of the canal is densely vegetated so that even when the trees are without leaf a person walking along Dean Road would scarcely be aware of the appeal site other than seeing the solid double wooden gates at the entrance. Although the Parish Council says the site is visible from a byway to the west, the view is a distant one.
26. The residents and Ward Councillor who attended the hearing expressed concern that litter and other items from the site might find their way onto Dean Road and that activities might expand, for example to use as a scrap metal business. This would damage the appearance of the rural area. However, it was evident from my visit that the Appellant’s use of the site has been going on for some time, albeit that the intention is now to regularise his residential occupation and to add a pitch for his son. The site seemed well contained and there was no evidence of any encroachment of the use beyond the boundaries. Conditions could be attached to any planning permission granted to prevent business use on the appeal site.
27. I understand that residents have concerns about a much larger gypsy site further to the east along Dean Road. I do not know the full details of the problems encountered and neither can I comment upon them. It would appear that there is some friction and that is a pity. However, that in itself is no indicator that this site, used by the Appellant for some 20 years, would throw up the same problems or indeed exacerbate those already encountered. The site is sufficiently distant from the nearest residential dwelling so as not to intrude upon the living conditions of its occupiers. There is no reason to suppose that the Appellant would not take as much pride and care with his property as would a member of the settled population.
28. The proposed development would not damage the character and appearance of the rural area nor the quality of the SLA and there is no conflict with the existing and emerging policies of the Development Plan aimed at protecting the quality of the landscape.

Other considerations - need for more pitches

29. There is clearly an urgent need for a substantial number of additional pitches in the South Wiltshire area and this was acknowledged at the hearing by the

Council. There is no five year supply of specific deliverable sites. The adopted SWCS identifies a need for 18 by 2011 and the replacement figure in the emerging WCS is likely to be no less than 37 for the period 2011-16 and no less than 19 for the period 2016-21. Since the 2006 assessment, which is now agreed to have understated need, planning permission has only been granted for three pitches². I was advised that refurbishment of a public site at Downton will provide a further two pitches. At the start of 2014, this is a lamentable record of provision when measured against the assessed need.

30. An updated needs assessment is to commence this year with a view to informing a formal review of the WCS in 2015 and the Site Allocations DPD anticipated for May 2016. There is no expectation that this will identify any reduction in the level of need. In intervening period between now and May 2016, the Council is looking at the possibility of releasing publicly owned land to help meet the need; assessing suitability by applying the policy criteria. However, with a report to Committee not due until June and then the mechanics to be put in place including obtaining planning permission, it seems to me unlikely that these sites will be provided any time soon. I was told that the Council expect private sites to continue to come forward both now and in the future which will be assessed against the policy criteria. All public sites within the County are full and there are some 15 families on the waiting list.
31. The personal circumstances of the Appellant and his son are set out in paragraph 8 above. Neither has an alternative site to go to that would facilitate the gypsy way of life. The appeal site is large enough to accommodate both the proposed residential use and the Appellant's hobby without undue intrusion on the surrounding courtside.

The balance of considerations

32. Looking at the performance of the appeal site against the gypsy and traveller policy in the existing Development Plan, the site does not meet the "preference" for a location within or close to a settlement in the SWCS but otherwise there is no identified policy conflict. In respect of the emerging Plan, the WCS, the site is located near to an existing settlement (as will be identified in that plan) and it is within a reasonable distance of a limited range of services and facilities (within some 2-3 miles). However taking into account that there are some alternative means of transport available in the area – bus, cycle and train – the site might be said to be brought within a reasonable distance of the full range of facilities and services.
33. Of course there might well be sites which would perform better in this respect but the emerging policy is not worded to require a location in or near to a settlement offering a specific level of facilities and services. This is commensurate with emerging policy for conventional housing which allows infill at Small Villages to meet local housing needs³. Occupiers of that housing would have the same requirements to access services and facilities for day to day living as would gypsies and travellers. Moreover, the very rural nature of the area generally needs to be borne in mind when considering what a "reasonable distance" might be and this in turn informs the assessment as to whether it is a "sustainable location". Having regard to the requirements of both existing and emerging policies I find the site to be a suitable location for a

² Table 1 of document 4

³ WCS policy CP2

gypsy site which would not undermine the settlement strategy for the area, is within a reasonable distance of services and would not harm the countryside. I find no material conflict with either existing or emerging Development Plan policies.

34. Nonetheless, insofar as there might have been said to have been conflict with policy – for example in not meeting the preference in SWCS policy CP4 for a location within or close to a settlement (as identified in that Plan) – that is outweighed by the ongoing urgent need for more pitches. The advantages for gypsies and travellers of having a settled base has long been recognised, not least in assisting with access to health services and in enabling children to attend school on a regular basis. Whilst it is anticipated that sites for new pitches are likely to be allocated towards the middle of 2016, the appeal site performs reasonably well when assessed against the criteria in emerging policy WCS CP47 (acknowledged as criteria which are unlikely to change) and I was told that it is expected that private sites will continue to come forward aside from the specific site allocations. Their suitability, as here, would be assessed by applying the policy criteria.
35. Having regard to my findings I intend to allow the appeal.

Conditions

36. The conditions suggested by the Council were discussed at the hearing. That specifying the standard time for commencement of the development is not necessary since the use has begun. It is, however, necessary to limit occupation by persons who meet the planning definition of gypsies and travellers since it is the application of policies relating to this group of people that has had a bearing on the outcome. The Council did not suggest a personal permission and I do not find this necessary as the personal circumstances of the specified intended occupiers did not need to be weighed in the balance so as to justify permission being granted.
37. It is necessary to restrict the number of caravans on the site to protect the character and appearance of the area and in this respect the normal standard of one static and one touring caravan per pitch will be adjusted to take account of the Appellant's hobby. For the avoidance of doubt a condition requiring the development to be carried out in accordance with the submitted drawings is necessary although the Council did not require a follow up that there should be no subsequent change to the position of the caravans because of the well screened nature of the site. It was agreed that a condition prohibiting any industrial or commercial use was necessary and that that would not impinge upon the Appellant's current restoration activities which the Council considers to be a hobby and incidental to the residential use. Whilst the representation from the Parish Council suggested a landscaping condition, the Council did not find this necessary and neither do I given the extent of the existing vegetation.

Formal Decision

38. The appeal is allowed and planning permission is granted for a change of use to a residential gypsy site involving the occupation of two caravans and the erection of an amenity block at Dillons Farm, Dean Road, East Grimstead, Salisbury SP5 3SD in accordance with the terms of the application, Ref:13/03834/FUL dated 2 September 2013, and the plans submitted with it, subject to the following conditions:

- 1) 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*.
- 2) No more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed on the site at any time and used for residential purposes. In addition no more than 3 other caravans comprising touring caravans or traditional showman or gypsy wagons shall be accommodated on the site.
- 3) The development hereby permitted shall be carried out in accordance with the following approved drawings: site location plan, site plan, site layout plan, plan for standardised static caravan, photograph of standardised static caravan and plan and elevations of day room.
- 4) No industrial or commercial activities shall take place on the land, including the storage of materials.

Bridget M Campbell

Inspector

APPEARANCES

FOR THE APPELLANT:

Mrs A Heine	Planning Consultant
Mr David Murphy	Appellant
Mr Dale Murphy	Son of the Appellant
Mr Paul Baker	Friend of the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Pearce	Land Development and Planning Consultants
Mr W Simmonds	Planning Officer

INTERESTED PERSONS:

Councillor R Britton	Ward Councillor representing two local residents
Mrs S Stacey	Local resident
Ms S Hesselberg	Local resident

DOCUMENTS submitted at the hearing

- 1 Photographs, two letters and notice to quit a highway verge submitted for the Appellant
- 2 Letter from Grimstead Parish Council
- 3 Extracts from the emerging Wiltshire Core Strategy
- 4 Wiltshire Core Strategy – Addendum to Topic Paper 16
- 5 Existing and emerging landscape policies addressing the SLA