

## Appeal Decision

Hearing held on 12 August 2014

Site visit made on 12 August 2014

**by Richard McCoy BSc MSc DipTP MRTPI IHBC**

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

**Decision date: 24 October 2014**

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**Appeal Ref: APP/Y3940/A/14/2217289**

**Landsdowne, Littleton, Semington, Wiltshire**

- 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 Felix Rooney against the decision of Wiltshire Council.
  - The application Ref 13/06123/FUL, dated 18 November 2013, was refused by notice dated 19 March 2014.
  - The development proposed is the change of use of agricultural land to extend an existing gypsy and traveller site, including the erection of 2 additional day rooms.
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### Procedural matters

1. I observed that the development described above has been partially carried out with the creation of a hard-standing and an earth bund, and the erection of fencing. I have dealt with the appeal on this basis.
2. The parties confirmed that the description given in paragraph 1.2 of the Statement of Common Ground "Retention of existing gypsy and traveller site and change of use of agricultural land to create 4 no. additional pitches with associated ancillary development" is more accurate than that stated above. I have dealt with the appeal on this basis.

### Decision

3. The appeal is allowed and planning permission is granted for the retention of existing gypsy and traveller site and change of use of agricultural land to create 4 no. additional pitches with associated ancillary development at Landsdowne, Littleton, Semington, Wiltshire in accordance with the terms of the application, Ref 13/06123/FUL, dated 18 November 2013, subject to the conditions set out in the Annex to this decision.

### Application for costs

4. At the Hearing an application for costs was made by Mr Felix Rooney against Wiltshire Council. This application is the subject of a separate Decision.

### Main Issues

5. I consider the main issues to be the effect of the proposal on the character and appearance of the area, whether the proposal would be a sustainable form of gypsy site development and whether any harm arising would be outweighed by the need for additional gypsy accommodation having regard to local and national policy, and personal circumstances.

## Reasons

### *Background and the site*

6. The appeal site is a wedge shaped field which extends to around 1 hectare and is situated in a rural area. It stands to the south east of the roundabout at the junction of the A350 with the A361. The access is taken from a lane which adjoins the A361. The eastern end of the appeal site has permission for use as a gypsy site with the remainder being an agricultural field. A number of public rights of way pass close to the site.
7. The approved pitch has permission for occupation by a single family with 2 static caravans (at the Hearing the terms *static caravans* and *mobile homes* were inter-changeable – I will refer to static caravans in this decision) 2 touring caravans and a day room. I observed 3 static caravans on site and the footings for the day room which according to the Statement of Common Ground has planning permission and would comprise a sitting room, kitchen, bathroom and a bedroom. I heard that this proposal would result in the completion of the dayroom, the removal of the 2 permitted static caravans (a further redundant static caravan on the site would also be removed) and the formation of 4 no. additional pitches within the undeveloped part of the site.
8. On each of the proposed 4 pitches would be stationed a static caravan and a touring caravan. Dayrooms would be provided on 2 of the pitches. These would be single storey rendered structures with low profile tiled roofs, measuring around 5m x 7m and containing a kitchen and bathroom. Each pitch would have a dedicated septic tank and vehicular parking. Also proposed are an earth bund, the erection of fencing between the pitches and the creation of a children's play area. Overall, this proposal would result in an extended gypsy site of 5 pitches, comprising a day room which would provide self-contained accommodation on a pitch which previously had planning permission for 2 static caravans and a day room, with 4 further pitches on the larger portion of the wedge shaped field to the west.

### *Policy considerations*

9. The development plan for the area includes the adopted West Wiltshire District Plan 1<sup>st</sup> Alteration 2004. Saved Policy C1 seeks to maintain the quality and variety of the countryside while saved Policy CF12 permits gypsy caravan sites in appropriate locations subject to criteria including encroachment into open countryside. The examination into the Wiltshire Core Strategy (CS) has not yet been completed as the Inspector has raised concerns in respect of the soundness of certain policies, including CP47 on meeting the needs of gypsies and travellers. As an emerging document that has not yet completed the examination stage I give it limited weight. The National Planning Policy Framework (NPPF) and the Planning Policy for Traveller Sites (PPTS) are material considerations and I refer to their relevant provisions below.

### *Character and appearance of the rural location*

10. The appeal site is an undesignated area of land in the countryside. One of the core planning principles of the NPPF is to recognise the intrinsic character and beauty of the countryside while the objective of criterion B of saved LP Policy CF12 is to avoid encroachment into open countryside. However the PPTS indicates that gypsy sites are acceptable, in principle, in rural areas. I

observed that the site is not prominent in the local landscape. Furthermore, the character of the landscape, notably small pasture fields subdivided by hedgerows, is such that the proposal would not be widely visible from distant views, with any impact limited to the immediate area.

11. The proposal would reduce the density of development on the existing site and while it would introduce additional static caravans, touring caravans and dayrooms, these would have a low profile appearance and would not be at a density that would give an impression of the site being overdeveloped. In which case they, along with the proposed fencing, bund, access drive and domestic paraphernalia such as parked vehicles and the play area would be effectively screened by the existing boundary planting and the proposed supplemental planting which could be secured by a condition attached to any grant of planning permission. This is the case with the nearby authorised private gypsy sites which as a result of the local landform and landscaping do not stand out as prominent developments in the rural area.
12. At the appeal site, the existing southern boundary hedge provides screening from the public rights of way and the lane. Mature hedges and a bund provide a similar landscape screen along the A361 and A350 boundaries. Against this background, I note the officer in the report to Committee considered that although there would be encroachment into the open countryside, the impact on the rural scene and landscape, would be negligible. From my assessment, I have no reason to disagree. In addition, I consider that any cumulative impact in conjunction with the other nearby gypsy sites would also be ameliorated by the landform, and existing and proposed landscaping.
13. Accordingly, in respect of the effect of the proposal on the character and appearance of the area, the proposal would not conflict with saved LP Policies C1 and CF12.

*Whether the proposal would be sustainable development*

14. The Council pointed out that PPTS paragraph 23 advises that Local Planning Authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However, the appeal site is close to the main road network, with an access onto the A361 giving rapid links to a good range of services and facilities at Melksham and Trowbridge. The village of Semington where there is a primary school is less than a kilometre away.
15. It also stands directly opposite Littleton Stables where a gypsy site was granted planning permission under appeal decision ref. APP/Y3940/A/13/2196160. The conclusion of the Inspector at that appeal was that the proposal was reasonably close to Semington and would satisfy the PPTS requirement that gypsy sites should not be away from existing settlements. In my judgement, the same is true of this proposal.
16. The proposal would therefore be accessible to local services and would provide housing that is required to meet the needs of the present generation so fulfilling the social role of sustainable development. Furthermore, the proposal would improve the conditions in which people live further reinforcing the social and economic roles of sustainable development.

17. The Council was also concerned that there would be no footpath links from the proposal to nearby bus stops and 2 busy roads would have to be crossed to reach the shops and services of nearby settlements, including the primary school in Semington. In this regard, it was argued that the proposal would not meet the environmental dimension of sustainable development as set out in the NPPF, on highway safety grounds.
18. However, the highway authority raised no objection to the proposal having assessed the highway safety aspects and from my assessment, I have no reason to disagree. Furthermore, this matter was considered by the previous Inspector who while noting that *it was possible to walk from that site by public footpath over fields to the village and to regular bus services to the main towns, this would entail crossing a busy road and in all likelihood most journeys would be by car*. He concluded nevertheless that dependence on a car in rural areas (such as this proposal) is not unusual and I can find no reason to disagree.
19. I further note from that appeal that it was common ground that the site was in a sustainable location and would meet the sustainability criteria set out in paragraph 11 of the PPTS. From the evidence before me, I consider that the 2 sites are comparable in this regard and conclude that this proposal would be sustainable development in its entirety for the purposes of the NPPF.

#### *Other considerations*

##### *Need for gypsy and traveller sites*

20. I heard that the Council is carrying out a Gypsy and Traveller Accommodation Assessment in response to the Inspector's comments at the examination of the CS. The Council accepts that it lacks a 5 year supply of deliverable land for gypsy sites and that there is a demonstrable need for such sites.
21. With respect to the supply of gypsy and traveller sites, the PPTS at paragraphs 4 and 9 sets out the national requirement for local planning authorities to plan over a reasonable timescale for an appropriate supply of suitable traveller sites, including private sites. The supply should comprise specific, deliverable sites for the first 5 years and developable sites or broad locations for later years. With respect to deciding specific planning applications, PPTS paragraph 22 cites the existing level of provision among relevant matters for consideration.

##### *Personal needs*

22. I heard that the site is currently occupied by 3 families. In a letter dated 2 May 2014 the appellant makes clear that under this proposal the site would be occupied as follows: Pitch 1 Mr and Mrs Felix Rooney and their 3 children aged 12, 11 and 3; Pitch 2 Mr and Mrs J Rooney and their 3 children aged 8, 4 and 1; Pitch 3 Mr and Mrs L Rooney and their child aged 3; Pitch 4 Mr and Mrs Gammell and their child aged 1, and Pitch 5 Mr and Mrs L Rooney. The parties agree that the appellant and his extended family satisfy the definition of *gypsies and travellers* as set out in Annex 1 of the PPTS and from my assessment I have no reason to disagree.
23. I note from the officer report to Committee that it was considered that the unauthorised occupation of the appeal site by the appellant's extended family points to their personal need for a site. In the same report the officer also

pointed out that no alternative sites were available to the appellant. From the evidence before me this situation does not appear to have changed.

*Personal circumstances*

24. Several of the children resident at the appeal site are registered at local schools. The best interests of the children are a primary consideration in this appeal. The families are also registered at local surgeries. The appellant argued that if planning permission is withheld then the families would become homeless and would be forced out on to the road. This would adversely affect their human rights contrary to Article 8 of the Human Rights Act 1998.

*Conditions*

25. Several conditions have been suggested and I have assessed and where necessary amended these in the light of the advice in the NPPF and the Planning Policy Guidance. Standard conditions are imposed relating to commencement time and to ensure that the development is constructed in accordance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. Further conditions are required to restrict the occupancy to gypsies and travellers as defined in the PPTS, to restrict the number of caravans on the site, to prevent commercial activity and to prevent large vehicles being parked or stored on the site, all in the interest of amenity.
26. In addition, a condition is necessary to ensure the removal of development from the site in the event of agreed schemes for landscaping, external lighting and drainage not being implemented. I also consider it necessary in the interests of highway safety that measures are included in that condition to ensure that the extant access at the south west end of the site is stopped up and passing places are provided. Further conditions are necessary to ensure that any damaged or diseased shrubs, trees and hedges are replaced and only approved lighting is installed, in the interests of amenity.

**Conclusion**

27. I have found that the proposal, subject to landscaping conditions attached to any grant of planning permission, would not be harmful to the character and appearance of the area. Furthermore, I consider that the proposal would fulfil the various roles necessary to achieve sustainable development as set out in the NPPF. In which case, there would be no conflict with national or local policies which seek to recognise the intrinsic quality of the countryside and achieve sustainable development.
28. In addition, I attach significant weight to the undisputed need for additional gypsy and traveller sites in the locality. Moreover, I am satisfied of the appellant's need for a settled base and note that the consequences of removal from the site, in terms of the extended family having nowhere else to go, are severe. These considerations point to the balance being clearly in favour of the proposal.
29. Accordingly, for the reasons given above I conclude that the appeal should be allowed subject to conditions.

*Richard McCoy*

Inspector



- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) The development hereby permitted shall cease to be occupied, all caravans, areas of hard standing and fences shall be removed and all equipment and materials brought onto the land for the purposes of such use and materials resulting from any demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) within 2 months of the date of this decision schemes for the stopping up of the extant access onto the unclassified road at the south-west end of the site, the provision of 2 no. passing bays (including construction details), hard and soft landscaping, external lighting and foul and surface water drainage shall be submitted to the Local Planning Authority. The schemes are to include a timetable for their implementation;
  - (ii) within 6 months of the date of this decision, if the Local Planning Authority refuse to approve the schemes submitted under (i) above or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
  - (iii) an appeal is made in pursuance of (ii) above, that appeal has been finally determined and the submitted scheme has been approved by the Secretary of State;
  - (iv) the approved schemes have been carried out and completed in accordance with the approved timetable.
- 8) Pursuant to condition 7 any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.
- 9) There shall be no other external lighting installed on the site other than that approved under the terms of condition 7.