
Appeal Decision

Hearing held on 5 November 2013

Site visit made on 5 November 2013

by B Hellier BA(Hons) MRTPI

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

Decision date: 7 January 2014

Appeal Ref: APP/Y3940/A/13/2196160

Littleton Stables, Littleton, Semington, Trowbridge, BA14 6LF

- 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 and Mrs A C Diment against the decision of Wiltshire Council.
 - The application Ref W/12/02050, dated 5 November 2012, was refused by notice dated 13 February 2013.
 - The development proposed is a permanent traveller/gypsy site comprising one mobile home, one dayroom and one touring caravan.
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Decision

1. The appeal is allowed and planning permission is granted for a permanent traveller/gypsy site comprising one mobile home, one dayroom and one touring caravan at Littleton Stables, Littleton, Semington, Trowbridge, BA14 6LF, in accordance with the terms of the application, Ref W/12/02050, dated 5 November 2012, subject to the conditions in the accompanying Schedule.

Application for costs

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

Procedural matter

3. After the Hearing closed, the Council received a letter¹ from the Inspector examining its Core Strategy dealing with a number of outstanding matters, including provision for gypsies and travellers. This was drawn to the attention of the main parties and I have had regard to this letter and the further representations made.

Background

4. The appeal site is part of a smallholding owned by the appellants where they have kennels and keep a variety of livestock. They have lived on the holding since 2006, initially without planning permission. The Council took enforcement action but in January 2010 temporary planning permission for three years was granted on appeal² for: *change of use and external alterations of a tractor shed to residential purposes; use of a touring caravan for*

¹ Dated 2 December 2013

² Appeal Ref APP/Y3940/A/09/2109292. Split decision 12 January 2010

residential purposes. The appeal was dismissed in respect of a utility/dayroom. The present proposals would replace the converted tractor shed with a mobile home and dayroom.

5. Mrs Diment was born into a gypsy family. She breeds dogs and travels regularly to local fairs where she sells puppies, dogs and horses and trades in tack. The Inspector in the previous appeal found that her pattern of travelling and her business activities met the planning definition of a gypsy¹. This was not disputed by the Council and, from what I have heard, I agree that she has gypsy status and that gypsy policies should apply to this appeal. It was also accepted that Mr Diment does not travel and does not claim gypsy status.
6. The appeal site is close to the main road network, with an access onto the A361 just east of a roundabout junction with the A350, which gives 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. It is possible to walk from the appeal site by public footpath over fields to the village and to regular bus services to the main towns. Even so, realistically, most journeys would be by car. However dependence on a car in rural areas is not unusual. It was common ground that the site is in a sustainable location and would meet the sustainability criteria set out in paragraph 11 of the PPTS. It is also reasonably close to Semington and would satisfy the requirement in paragraph 23 of the PPTS that gypsy sites should not be away from existing settlements.

Main issues

7. There are two main issues. Firstly, the effect of the proposed development on the character and appearance of the surrounding countryside. Secondly, if there is any harm to the countryside, then whether this is outweighed by other considerations, including the general need for gypsy sites and the accommodation needs and personal circumstances of the appellants.

Reasons

Character and appearance

8. The site lies in open countryside but not within the Green Belt or within any particular landscape designation. The landscape is relatively flat agricultural land with strong hedgerows. Nearby are clusters of development around Littleton Green to the north and Littleton Wood Farm to the east. Immediately opposite a gypsy caravan is just visible. To the west on the other side of the roundabout is a larger gypsy development of three pitches well hidden from the road behind a landscaped bund. It adjoins the grounds of the West Wiltshire Crematorium set within parkland.
9. The appeal site is set back some 50 metres from the road behind a substantial hedge. The rear boundary is also marked by a thick well maintained hedge. At present the site contains the timber clad converted tractor shed, a long kennels building, two secure metal containers and a touring caravan, none of which exceed much more than 3 metres in height. These buildings and structures only project very slightly over the rear hedge and are not conspicuous from any public viewpoint.

¹ In Annex 1 of *Planning Policy for Traveller Sites*. DCLG. March 2012

10. The proposal would introduce a day room with a pitched roof rising to a height of some 4 metres at the ridge and a mobile home. The mobile home the appellants wish to use would have a shallow pitched roof with a ridge height of about 4.7 metres. Both structures would project above the rear hedge and it would be possible to get glimpses of them from points on the lane leading to Littleton Green and from the A350 approaching the roundabout from the north. It is also the case that the bulk of the mobile home and dayroom would give a more residential character to the site than the existing tractor shed.
11. One of the core planning principles of the National Planning Policy Framework (NPPF) is to recognise the intrinsic character and beauty of the countryside. However the PPTS indicates that gypsy sites are acceptable, in principle, in rural areas. In this instance there are other permanent gypsy mobile homes nearby and there is already a cluster of buildings and structures associated with the smallholding. The site is not prominent and the proposed development would not intrude significantly into the wider landscape. In the longer term a planting scheme to reinforce the rear hedge would further reduce the visual impact.
12. I conclude that the proposed development would have little adverse effect on the character and appearance of the countryside and as such would satisfy saved Policy C31a of the West Wiltshire Local Plan (LP) and criteria vi and viii of Core Policy 47 in the emerging Core Strategy (CS)¹. As the development would be contained within the boundaries of the existing building group there would be no material conflict with the objective of criterion E of LP Policy CF12 which is to avoid encroachment into open countryside.
13. The Inspector in the previous appeal did not allow the dayroom submitted at the time, concluding that it would have the appearance of a residential bungalow and that it would be overly large for its ancillary role to a mobile home. The present proposal is of a design and scale more appropriate to its function as a dayroom with an associated kitchenette and toilet.

Other considerations

14. The latest assessment of need for gypsy accommodation in Wiltshire was carried out by the Council in 2011². It is described as a light touch review of a gypsy and traveller assessment (GTAA)³ undertaken in 2006. An overview of regional pitch requirements⁴ in 2008 on behalf of the South West Regional Assembly criticised this earlier work as underestimating both the baseline number of gypsy households and demand arising from hidden households and new household formation.
15. The 2011 assessment seeks to address these concerns. It subdivides the identified need into housing market areas. The appeal site falls within the North/West Wiltshire area where there is a forecast need for 33 new pitches for the period 2011-2016 and a further 20 pitches from 2016-2021. Since 2011 three factors have contributed to increasing supply.

¹ Current version is *Wiltshire Core Strategy Pre Submission Document: Hearing Session Tracked Changes Version*. Updated September 2013. Core Policy 47 is titled *Meeting the needs of Gypsies and Travellers*

² Set out in Topic Paper 16: *Gypsy and Travellers*. *Wiltshire Core Strategy Consultation* January 2012

³ *Wiltshire County/ Swindon Borough Gypsy and Traveller Accommodation Needs Assessment*. Final Report. 2006

⁴ *Advice on RSS Review of additional pitch requirements for gypsies and travellers in the South West*. Part 1 Report: GTAA Benchmarking. University of Birmingham (CURS) and University of Salford (SHUSU). January 2008

- 16 pitches were identified as having been granted permission but not occupied at the time of the 2011 assessment.
 - 24 private pitches have been approved.
 - 8 additional public pitches will be provided with the refurbishment of the Council run Thingley site. Funding has been secured from the Homes and Communities Agency and planning permission granted in February 2013.
16. On this basis in the North/West area there has been delivery of 48 pitches against a forecast requirement of 33. Elsewhere in the District there have been few new permissions but even so, such has been the increase in the supply in the North/West area, that the figures suggest that to date overall supply in Wiltshire has kept pace with assessed need.

	Assessed need			Provided to date
	2011-16 ¹	2016-21	Total	
North/West	33	20	59	48
East	2	1	3	0
South	35	17	63	6 ²
Total	68	38	125	52

17. From the number of permissions for private sites it would appear that the 2011 assessment has underestimated need in the North/West area. This may in part be because the methodology assumes no pent up demand in 2011 arising from gypsies on private sites or in conventional housing. It may also be that constraints elsewhere divert demand to this part of Wiltshire. The assessment places considerable reliance on the biennial caravan counts. They are only one indicator of need and the Council accepts that it would be helpful to have, in addition, empirical data on the current number, structure, movements and aspirations of gypsy households.
18. The 2011 assessment of needs has been adopted in Core Policy 47. Following hearings as part of the examination of the Core Strategy the Council amended the policy to make it clear that the forecasts represent the minimum requirement for the plan period. Even so the Inspector undertaking the examination still concludes that there is a degree of substantive doubt as to whether the pitch requirements set out in Core Policy 47 can be justified or that the Council is able to identify a supply of specific deliverable sites for the next five years.
19. I have also taken account of the accommodation needs of the appellants. They need a permanent base because much of their livelihood is generated from the smallholding and because Mrs Diment is in poor health, has been unable to travel recently, and needs access to local health services. There are limited options for moving. The gypsy site opposite has been on the market but was outside the price range of the appellants. Otherwise there was no evidence of any suitable, available and affordable alternative.

¹ Excludes households assumed to be accommodated through turnover on socially rented sites.

² Includes 2 extra pitches planned for the Council site at Lode Hill

20. The Council has moved a considerable way in addressing the shortfall of sites identified in 2011 and has exceeded its target provision for the North/West housing market area up to 2016. However there must be considerable reservations as to the robustness of the current assessment. Significant weight should be given to these reservations and also to the undisputed need of the appellants for a settled base. In reviewing this need against landscape harm I have no doubt that the balance is clearly in favour of the proposal.

Other matters

21. Semington Parish Council and other local residents are concerned that the proposed development, in combination with the two nearby sites, would amount to a considerable concentration of gypsy development in this part of the village. The gypsy pitches by the crematorium have been occupied fairly recently and I heard that there were some tensions between the settled residents and gypsy families. However the total gypsy population involved would not dominate the local community and it would be a reasonable expectation that the gypsy community would over time be assimilated into the social structure of the village.
22. The Parish Council also pointed to the disparity between the treatment of applications in the countryside for residential gypsy pitches and those for housing for the settled population. However gypsies have a lifestyle that would generally be out of place within the built up area of villages and towns and gypsy sites are normally found outside settlement development boundaries. National planning policies recognise this cultural distinction but nonetheless require sites to be in sustainable locations and to satisfy locally specific criteria. I am satisfied in this case that the proposal does meet these criteria.
23. The existing converted tractor shed on the site has less visual impact than the proposed mobile home although it would be unusual for a permanent structure to be an accepted form of gypsy accommodation. The appellants indicated that retaining this building in association with the proposed day room would be an attractive option for them. However this is not a proposal that is before me and I have dealt with the appeal on the basis of the application that was submitted to and refused by the Council.

Conditions

24. I have considered the conditions submitted by the Council and those discussed at the Hearing against the tests in paragraph 206 of the NPPF.
25. In addition to standard conditions relating to commencement and compliance with approved plans there is a need to restrict the use to gypsies and, in the circumstances of this case, to Mr Diment, and to limit the number of caravans to those applied for. To minimise visual intrusion a landscaping condition is needed to strengthen boundary planting and permitted development rights in relation to means of enclosure, lighting and ancillary domestic buildings should be withdrawn. Apart from the existing smallholding business there should be no commercial use of the site. Finally the existing tractor house should be removed before its replacement mobile home is occupied.

Conclusion

26. For the reasons given above I find that proposed development would be in a sustainable location, would cause little harm to the character and appearance

of the countryside, would make a positive contribution to the supply of gypsy sites in this part of Wiltshire and would meet the need of the appellants for a settled base. I conclude that the appeal should be allowed.

Bern Hellier

INSPECTOR

Schedule of 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: 10/12/1/1; 10/12/1/2; 10/12/1/3.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Travellers Sites and by Mr Adrian Diment for as long as he is the resident partner of Mrs Christine Diment or, in the event of her predeceasing him, her widower.
- 4) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than 1 shall be a mobile home, shall be stationed on the site at any time.
- 5) No development shall take place until a landscaping scheme showing full details of both hard and soft landscape works has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved prior to the occupation of the mobile home or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the first occupation of the development 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.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any order revoking, re-enacting or modifying that Order, no external lighting, fences, gates or walls (other than as may be approved under Condition 5), garden structures or outbuildings shall be erected on the site.
- 7) With the exception of the breeding and sale of horses and dogs and the sale of tack owned by the site occupiers no commercial activities shall take place on the land, including the storage of materials.
- 8) The existing converted tractor shed shall be demolished and the materials moved from the site before the first occupation of the mobile home.

APPEARANCES

FOR THE APPELLANT:

Mr T Phillips	Thurdleigh Planning Consultancy
Mr K Cole	Planning Consultant
Mr and Mrs Diment	Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Wilmott	Area Development Manager
Mr H Totz	Senior Planning Officer

INTERESTED PERSONS:

Mr B Smyth	Semington Parish Council
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DOCUMENTS

- 1 Modifications to Core Policy 47
- 2 Count of Gypsy and Traveller Caravans January 2013
- 3 Schedule of gypsy and traveller planning applications and decisions from December 2011
- 4 Plans accompanying appeal decision APP/Y3940/A/09/2109292
- 5 FOI request re HCA funding allocation to Wiltshire
- 6 South West Regional Assembly: GTAA Benchmarking Report 2008
- 7 Wiltshire Core Strategy Topic Paper 16: Gypsy and Travellers 2012