

CHIEVELEY 12/00494 Pins Ref 2180939	Stable View, Old Street, Hermitage Mr S Banham	Retrospective. Change of Use of the land to a Gypsy Site with one pitch, to contain one static caravan, one touring caravan and parking for two vehicles with associated hardstanding, cesspit and walls within site.	Dele. Refusal	Dismissed 12.3.13
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Procedural Matters

Since the local planning authority (LPA) made its decision on the planning application, some policies in the West Berkshire Local Plan have been superseded by policies in the adopted the West Berkshire Core Strategy. Only Local Plan policy HSG1 (the settlement boundaries within which housing will be permitted) remains of some relevance to this appeal.

The effect of the revocation of the Regional Strategy for the South East has been considered but in the light of the facts in this case the revocation did not alter the Inspector's conclusions.

Main Issues

The main issues are:

- (a) the effect of the proposed development on the character and appearance of the surrounding area, part of the North Wessex Downs Area of Outstanding Natural Beauty (AONB);
- (b) whether the financial contributions sought by the LPA in respect of services, amenities and infrastructure needs are reasonable and necessary to make the proposed development acceptable in planning terms; and
- (c) whether any conflict with policy or other harm would be outweighed by other material considerations, including the need for gypsy and traveller caravan sites and the occupiers' personal and family circumstances.

Reasons

The use of the appeal site has already commenced, with a mobile home stationed (with an attached wooden structure) on the site, and an adjoining play area bordered by a brick wall. Adjoining land in the same ownership is used as paddocks and bordered mostly by tall fencing, but this does not form part of the appeal application.

Enforcement appeals and an appeal against the refusal of planning permission for change of use to a private gypsy caravan site were dismissed in September 2011. That refusal related to the overall land holding (about 0.8 hectare) whereas the site now under consideration comprises only part (about 0.12 hectare) of that.

(a) Character & Appearance

In the site's present form, tall wooden gates with adjoining brick walls lead into an area of hardstanding for vehicles and a touring caravan, at the far end of which are a static caravan and its lean-to structure. Close to the entrance is a caged run for guard dogs. Along the west side of the hardstanding is a brick wall, beyond which is the extensive play area, which includes some substantial pieces of equipment. The two sheds shown on the application plan are no longer in place.

The site adjoins the west side of Old Street and along this boundary are a bank and a tall wooden fence, with various non-native planting between the fence and carriageway. The site is outside any settlement boundary defined by policy HSG1 and the lane mostly has a traditional rural appearance bordered by verges and hedges; it serves a scatter of residential properties. To the south of the site, some farm buildings which are also screened by high wooden fencing, albeit behind the roadside hedge.

Development in West Berkshire is expected by Core Strategy policy ADPP1 to follow the existing settlement pattern; most development is to be within or adjacent to defined settlements. Development of the appeal site would in principle conflict with this guidance and with the recognition by the National Planning Policy Framework (the Framework) of the intrinsic character and beauty of the countryside. In addition, the national *Planning policy for traveller sites* (PPTS) states that new traveller sites in open countryside should be strictly limited.

In addition to the harm in principle, there would be harm to the character and appearance of countryside which forms part of an AONB. Among the criteria of Core Strategy policy CS7 (Gypsies, Travellers and Travelling Showpeople) is that regard should be had for the character and policies affecting the AONB. In AONBs, Core Strategy policy ADPP5 gives great weight to the conservation and enhancement of natural beauty. This accords with the Framework, which notes AONBs have the highest status of protection in relation to landscape and scenic beauty.

Locally, the Landscape Character Assessment (LCA) puts the site within Landscape Type 8 – Lowland Mosaic, which has a distinctive small-scale and enclosed landscape, and the Hermitage Wooded Commons character area 8A, the key characteristics of which include its rural lanes; a key issue is the suburbanising influence of built development.

A planning condition could be imposed requiring a site development scheme and so the harmful treatment of the roadside boundary would not necessarily remain, although removal of the unsightly fence would then expose the interior of the site to wider view and it would not be unusual to require in due course an amenity building.

The hardstanding, caravans, parked vehicles and sheds would not be screened by existing farm buildings but detract from the rural character and appearance of the surrounding area, and to them would be likely to be added domestic paraphernalia such as seating or bins.

A particularly intrusive and urbanising feature would be the brick wall separating the hardstanding from the play area and, even if the play area did not contain such substantial equipment as now installed, some equipment would be likely and it would still have an urbanising effect in the countryside.

A longer distance view to the site is obtainable from Priors Court Road to the south-west, in which the upper parts of the static caravan are clearly visible, but the harmful effects of the development would mostly be localised. They would be readily apparent to anyone passing along Old Street and the harm to the area's character and appearance would be significant.

The Inspector therefore concluded on this issue that the proposed development would result in unacceptable harm to the character and appearance of the surrounding area, part of the North Wessex Downs AONB. It would conflict with the relevant aims of the Framework, PPTS, Local Plan policy HSG1, Core Strategy policies ADPP1, ADDP5 and CS7 and the LCA.

(b) Financial Contributions

The text accompanying Core Strategy policy CS5 notes that development should not be permitted unless essential infrastructure can be completed in pace with new development. More detail is provided in Supplementary Planning Guidance Note 4/044, which sets out the Council's approach to seeking developer contributions towards local infrastructure, services and amenities.

In relation to the appeal proposal, the LPA is seeking specified financial contributions towards highways and transport, education, public open space provision, libraries, health care and adult social care. The appellant does not dispute in principle or in detail the contributions, which the Inspector considered meet the tests of regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework.

However, despite a stated willingness to enter into a section 106 planning obligation, the appellant has provided only the unilateral undertaking submitted in the context of the previous appeals. Although undertaking to make contributions in relation to the same range of services and facilities as now sought, that obligation relates specifically to the previous appeals and planning application.

In the absence of any planning obligation relating to the current appeal, his conclusion on this issue is that the proposed development would fail to make financial contributions sought by the LPA in respect of services, amenities and infrastructure needs which are reasonable and necessary to make the proposed development acceptable in planning terms. It would conflict with the aims of policy CS5 and SPG4/04.

(c) Other Material Considerations

It is not disputed that the appellant satisfies the definition of “gypsies and travellers” given in PPTS. There is no up-to-date Gypsy and Traveller Accommodation Assessment (GTAA); a GTAA for the Thames Valley region in 2006 found there was a need for four additional pitches in West Berkshire in 2006-2011 and this is noted in the Core Strategy. That GTAA informed policy H7 of the partial review of the regional strategy, which proposed an additional 18 pitches in West Berkshire for 2006-2016, but the report of the examination in public was not completed and limited weight can now be given to the policy.

Turning to the supply of sites, the District has two authorised sites: a Council site of 19 pitches at Four Houses Corner and a private site, with 24 permanent pitches, at Paices Hill. There are no lettable vacant pitches on the Council site and no plans to enlarge this. Planning permission has recently been given for a site at Padworth Farm and there is one outstanding application for a site in the AONB. No alternative sites for the appellant are suggested, but nor did the Inspector have any evidence of his efforts to find one.

The LPA acknowledges there is a shortfall of available sites in the District, and this is to be addressed in a new GTAA and the Site Allocations Development Plan Document, which is programmed for adoption in June 2015. The LPA cannot therefore demonstrate an up-to-date five-year supply of deliverable sites (although PPTS makes this a significant material consideration only when considering applications for the grant of temporary planning permission).

The Inspector then turned to the personal circumstances of the intended occupiers, who would be Mr Stephen Banham and one of his children, 15-year-old Jimmyshaun Frankham. The previous appeal decisions explained Mr Banham’s background but referred to the unreliability of his evidence; that Inspector took the view that Mr Banham seemed to have close links with 1 Carter Hill Park Caravan Site and 10 Wythe Close, Hermitage, and certainly had an alternative home (Wythe Close) in 2008/9. The current appeal does not supplement or amend those earlier conclusions, which suggest that the appellant may not have an aversion to conventional housing.

Mr Banham had cardiac surgery in 2008, following which he was being seen at hospitals in Reading and London. In 2011, he was diagnosed as having Marfan disease and other complications and, following an emergency transfer to the Royal Free Hampstead hospital, further procedures were to be undertaken at the Royal Berkshire hospital and his GP surgery.

The health statement (March 2012) says Mr Banham’s condition has deteriorated since November 2011 and he is prescribed morphine for pain relief. A letter in December 2011 from The Downland Practice explained Mr Banham’s serious condition and that the Royal Free was hoping to operate in April 2012. The appellant submitted in August 2012 an undated letter from the Royal Free hospital, saying Mr Banham had been in their care since 20 June 2012 and needed a stable home. However, when contacted by the LPA, the hospital could not trace anyone with the name of the letter’s signatory. In July 2012 his agent said Mr Banham was in hospital awaiting a serious heart operation.

Mr Banham was present at the site visit and walked with the aid of a stick; there was a wheelchair outside the static caravan and numerous tablets inside. It is unclear, therefore, whether Mr Banham has undergone further surgery and whether his condition has since improved. It is possible Mr Banham may still require care and medication, for which it would be beneficial for him to have a stable location, but it is unclear whether his condition is worse than at the time of the previous appeals and whether it is now so serious that it is essential for him to live at the appeal site.

It is not disputed that Jimmyshaun Frankham has special educational needs. As these cannot be met at a mainstream school, since April 2011 he has been attending The Lighthouse Group in Calcot, near Reading; for transport to and from school, the Council provides a taxi. His headteacher supports stabilisation of the family's long-term future so that Jimmyshaun can stay at The Lighthouse Group until he reaches 16 (which will be on 1 October 2013).

The Inspector agreed with the LPA that the education of Jimmyshaun is important, as is a stable home. However, in principle he could gain access to the school from elsewhere in West Berkshire and it has not been explained why he cannot live with his mother in Hermitage. The previous appeal decision notes that until January 2011 he travelled to various schools from his home at Wythe Close, where Linda Frankham/Mrs Linda Banham was recorded as having parental responsibility.

Although not specifically raised by the main parties, rights under Article 8 of the European Convention on Human Rights are engaged. Dismissal of the appeal would deprive the intended occupiers of a settled base for their accommodation, from which they would carry on their private lives, without any certainty of suitable alternative accommodation being readily available. This would represent an interference with their home and family life and adds support for the proposal.

The Inspector came to the view that the proposed development would be harmful in principle and in practice to the character and appearance of the surrounding area, part of an AONB, and to the provision of services, amenities and infrastructure. On the other hand, there is a general need for additional gypsy and traveller sites, the supply of which the LPA has not yet resolved, and there is a lack of suitable, available, alternative sites. Because of doubts about the personal circumstances, he did not regard these as significant but human rights are a supporting factor.

Overall, the Inspector concluded that, because of the great weight which has to be attached to the conservation and enhancement of natural beauty in AONBs, the harm to the area's character and appearance would be sufficiently significant that it would outweigh the above matters in favour of the proposed development. To that harm would need to be added the effects on infrastructure. As the harm which would be caused by the development in terms of its effects upon the economic well-being of the country (which encompasses protection of the environment) is considerable, this legitimate aim can only be adequately safeguarded by the refusal of permission.

The Inspector had considered whether temporary permission would be appropriate, particularly for Jimmyshaun's education, but he is now very nearly 16. The harm to the AONB would be perpetuated and the protection of the public interest cannot be achieved by means which are less interfering of the appellant's rights. They are proportionate and necessary in the circumstances and would not result in a violation of his rights under Article 8.

Other Matters

The LPA considers the site not to be in a sustainable location. It is about 1.5km from Hermitage and 2km from Chieveley, further than the desirable walking distances advised by the Institution of Highways and Transportation, and Old Street lacks footways and lighting and so is not suited to walking. The appellant's health may restrict his own ability to walk and the Inspector considered that, in general, occupation of the site would be likely to encourage car use. However, the distances to the village services and the size of the site are not so great that the site's location would be unacceptable in terms of accessibility to services.

The Inspector had also taken into account all the other matters raised in the written representations, but they did not outweigh the considerations which have led to his conclusions on the main issues.

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