



Appeal Decision

Hearing held on 24 May 2011

Site visit made on 24 May 2011

by Ruth V MacKenzie BA(Hons) MRTPI

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

Decision date: 14 June 2011

Appeal Ref: APP/Y3615/A/10/2140630

Land to the north of Green Lane East, Flexford, Normandy, Surrey GU3

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John Searle against Guildford Borough Council.
 - The application (Ref No 10/P/00507) is dated 8 March 2010.
 - The development proposed is the use of land for the stationing of caravans for residential purposes for 1 No gypsy pitch together with a utility/dayroom ancillary to that use.
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DECISION

1. I allow the appeal, and grant planning permission for the use of land for the stationing of caravans for residential purposes for 1 No gypsy pitch together with a utility/dayroom ancillary to that use, in accordance with the terms of the application, Ref No 10/P/00507 dated 8 March 2010, subject to the conditions in the Schedule at the end of this decision.

BACKGROUND INFORMATION

2. Had the Council been in a position to determine the application within the prescribed time, it would have refused it for 3 reasons. The first two reasons relate to the Green Belt, and the third reason relates to the absence of a S106 legal agreement to provide a financial contribution to mitigate any harm to the Thames Basin Heaths Special Protection Area (TBHSPA). A signed and sealed legal agreement has now been submitted. I am satisfied that it meets the requirements of Circular 05/2005, and that it is in line with the Council's *TBHSPA Avoidance Strategy 2009-2014*. I do not therefore intend to refer to the TBHSPA any further.

MAIN ISSUE

3. In accordance with *Planning Policy Guidance Note 2: Green Belts (PPG2)* and *ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites (Circular 01/06)* the appellant agrees with the Council that the proposed gypsy site would be inappropriate development in the Green Belt. I have no reason to take a different view. Indeed, if I were to take a different view, it would conflict with policy RE2 of the adopted *Guildford Borough Local Plan (LP)*.
4. I therefore consider that the sole issue in this appeal is whether the harm by reason of inappropriateness, and any other harms, is clearly outweighed by

other considerations, so as to amount to the very special circumstances necessary to justify the development.

INSPECTOR'S REASONS

The site and its surroundings

5. The proposed gypsy site is a small rectangular plot of land adjoining an unadopted access lane that also serves 2 dwellings, some stables, and some open land beyond. The access lane connects to Green Lane East, a single track road which, in turn, connects with Westwood Lane. Both of these lanes have frontage housing.
6. The appeal site has high conifer trees on 2 sides. An adjoining paddock to the rear, also owned by the appellant, is similarly screened. The front boundary, adjacent to the access lane, is fenced and gated. The site is largely secluded from public view, but not isolated. Indeed, to my mind, it could be described as being part of the loose-knit residential area of Flexford. The nearest houses are "Westholme", immediately adjoining to the south; and "Tollerton", on the other side of the access lane.

Harm to the Green Belt

7. I have already established that the proposed gypsy site would constitute inappropriate development. Paragraph 3.2 of PPG2 advises that inappropriate development is, by definition, harmful to the Green Belt, and substantial weight should be attached to that harm.
8. I also consider that the mobile home, the touring caravan and the utility/dayroom would be harmful to the openness of the Green Belt. PPG2 advises that the most important attribute of Green Belts is their openness. Harm would also arise from the fact that there would be some encroachment into the countryside, albeit on a small scale. Safeguarding the countryside from encroachment is one of the 5 purposes of including land in the Green Belt. This, together with the harm to openness, is something to which I give considerable weight.
9. I share the view of the Council that the site's secluded position limits any harm to visual amenities.
10. In summary, I give substantial weight to the harm by reason of inappropriateness, considerable weight to the harm to the Green Belt's openness, and limited weight to the harm to visual amenities. These harms have to be weighed against the other considerations which I will now consider.

Other considerations

The need for sites

11. The *Gypsy and Traveller Accommodation Assessment* (GTAA) identifies a need for about 30 new pitches in Guildford Borough between 2006 and 2011. An updated GTAA is due to be completed in about a year's time. In my view, the need for pitches after 2011 is unlikely to be significantly less than 30 and, indeed, it could be much more. The Council has provided only 2 pitches since 2007, and it has no new pitches in the pipeline.
12. The Council's gypsy sites at Ash Bridge and Cobbett's Close are both full, and there are 50 families on the waiting lists. Therefore, for gypsies who, like the

appellant, have neither a private pitch nor a pitch on a Council site, their only alternative is to station their caravans on unauthorised sites or move out of the area.

13. In summary, there is a large un-met need for pitches in Guildford Borough; a point accepted by the Council. This un-met need, and the lack of alternative authorised pitches, is something to which I attach substantial weight.

The failure of policy

14. For various reasons, the Council has made disappointingly slow progress on its Local Development Plan. However, the recent Local Development Scheme indicates that adoption of the Core Strategy is expected to be in 2014 or 2015. On that basis, the Council is confident that by 2016 new gypsy sites will have been allocated and acquired, and new pitches made available. I have no reason to dispute this.

The likely location of any new sites if and when they become available

15. About 89% of Guildford Borough is in the Green Belt. There is therefore a high probability that any new sites allocated by the Council will be in the Green Belt. The Green Belt location of the appeal site, whilst not ideal, has to be considered in that context.

The suitability of the site as a gypsy site

16. Apart from the fact that the site is in the Green Belt, I consider that the other criteria for gypsy sites in LP policy H13 are all met. In particular, the site is within a reasonable distance of local services and facilities, its secluded location and well-screened boundaries would minimise any adverse impact on the character of the surrounding area, and its small size would limit the impact on neighbours' amenities. Thus, I consider that the site has much to recommend it when assessed against LP policy H13.

The personal circumstances of the appellant

17. The appellant is from a large extended family of Romany gypsies living locally. His gypsy status is not disputed. He travels for about 5 months a year with his son John (aged 18) to find work in landscaping, tree surgery or car dealing. For the rest of the year, father and son stay together on the appeal site.
18. The appellant's wife Emma lives with the 3 younger children, Jade (aged 15), Jamie-Leigh (7) and Ruby (6) in her mother's house about 8km from the appeal site. Emma finds the travelling and the lack of a permanent base difficult with young children, and the appellant finds it hard living in a house and so they are temporarily separated. The 3 younger children are all doing well at school, and enjoy good health; something that Emma attributes to their settled life-style. At the moment, they regularly visit their father at the appeal site at weekends and during the school holidays. The intention is that the family would re-unite and live together on the appeal site. If this appeal is dismissed, the appellant would have no permanent base and he fears that he would see far less of his 3 younger children.
19. I do not under-estimate the importance of the extended family to gypsy families such as the appellant's; nor do I underestimate the appellant's understandable desire to re-unite his family. However, there is nothing that requires him to be on this particular site in this particular part of the Borough.

To my mind, any other location would suffice, provided that it was within easy travelling distance of his extended family. For these reasons I give only limited weight to the appellant's personal circumstances.

Other considerations raised by local residents

20. In my assessment of this appeal I am fully aware of the strength of local objection to the proposal. Indeed, none of the local residents has written in support of it. Concerns have been expressed about the dangers associated with increased traffic on Green Lane East and at its junction with Westwood Lane. However, there is no evidence to indicate that the small amount of traffic generated by a single-pitch gypsy site would make highway conditions materially worse and, in that respect, I note that the Highway Authority has raised no objections.
21. Concerns have also been expressed about the recent flooding of nearby gardens. However, this would appear to be connected with the access lane and not the appeal site itself. Overloading of the sewage system is another concern but, to my mind, this is a matter for the statutory undertaker and is not a material planning consideration.
22. In the view of several local residents, Normandy parish has already got more than its fair share of gypsy sites. They feel that "enough is enough". Of particular relevance is a recent Secretary of State's decision (Ref No APP/Y3615/A/10/2131590, dated 24 February 2011) which granted permission for a 6-pitch site in nearby Glaziers Lane for a temporary period expiring on 31 March 2015. I am mindful of the potential cumulative impact that clusters of gypsy sites can have, but in this particular case, my concerns are tempered by the fact that the Glaziers Lane permission is for a limited period only, and the current appeal relates to just a single pitch.

Whether the harm by reason of inappropriateness, and any other harms, is clearly outweighed by other considerations.

23. The substantial weight that I attach to the harm by reason of inappropriateness, the considerable weight that I give to the harm to openness, and the limited weight that I give to the harm to visual amenities have to be balanced against the other considerations. These include the significant un-met need for sites, something to which I give substantial weight. The lack of alternative sites, the failure of policy and the slow progress being made by the Council in finding new pitches are other considerations to which I afford considerable weight. I give moderate weight to the site's limited visual impact and its sustainable location. I give only limited weight to the appellant's personal circumstances.

Do very special circumstances exist?

24. On balance, I have decided that these other considerations do not clearly outweigh the harms to the Green Belt on a permanent basis. The very special circumstances necessary to justify a permanent gypsy site on this site do not therefore exist.

Temporary permission?

25. The Secretary of State has announced his intention to revoke Circular 01/06 but it remains in place, and I must still have significant regard to it. Paragraph 45 makes it clear that where there is un-met need and no available alternative sites, but a reasonable expectation that new sites are likely to become available at the end of a certain period of time, consideration should be given to granting a temporary permission. To my mind, these circumstances are applicable in this appeal. There is an un-met need for pitches, but a reasonable expectation that by 2016 the Council will have found new sites and made pitches available. In the meantime, although there would still be harms to the Green Belt, the harms would be for a limited period only. The un-met need for sites, the small size of the appeal site and its secluded and sustainable location would, in my view, clearly outweigh those short-term harms.

Human Rights

26. Dismissal of this appeal would, in all likelihood, require the appellant and his son to vacate the site (which has to be regarded as their home) without any certainty of suitable alternative accommodation being readily available. I recognise that this would represent an interference with their home and family life. Given the acknowledged difficulties in finding a suitable alternative site within the locality and the likelihood of alternative sites becoming available within the next 5 years through the Local Development Framework process, I consider that a temporary planning permission for a period of 5 years is appropriate and reasonable in the circumstances. 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 their rights under Article 8 of the European Convention on Human Rights.

CONCLUSION

27. I have therefore reached the view that very special circumstances exist to justify a grant of planning permission for a limited period of 5 years and I have decided to allow the appeal on that basis.
28. In addition to the 5-year time limit, I have imposed a condition restricting the use of the site to gypsies and travellers to ensure that it reduces the un-met need for gypsy sites, albeit in a small way and for only a limited period. In the interests of the Green Belt's openness, I have required the site to be cleared and restored at the end of the 5-year period. I have also limited the number of caravans that can be on the site. To protect neighbours' amenities, I have stipulated that there should be no commercial activities and no vehicles over 3.5 tonnes. In view of the limited life of the permission, I have not required any new landscaping, but there is a condition that seeks further details about drainage, external lighting, boundary treatments and the retention of trees. Finally, for the avoidance of doubt and in the interests of proper planning, I have listed the approved plans.
29. In reaching my decision I have taken into account all other matters raised, including the fact that planning permission was refused for a gypsy site on the same land in 2005; however, different rules now apply and I have looked at the proposal afresh. The Council and the appellant have drawn my attention to many other decisions relating to gypsy sites. However, each application has to

be considered on its own individual merits, as I have done in this particular case. Neither these nor any other matters are sufficient to outweigh my conclusion that the appeal should be allowed for a temporary 5-year period.

Ruth V MacKenzie

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The site shall not be occupied by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) The use hereby permitted shall be for a limited period being the period of 5 years from the date of this permission. At the end of that period, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use, including the utility/dayroom hereby approved, shall be removed. Within 6 months of that time the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
- 4) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) No commercial activities shall take place on the site, including the storage of materials.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; boundary treatment and the trees to be retained (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the local planning authority and the said Scheme shall include a timetable for its implementation.
 - ii) if within 11 months of the date of this decision the Site Development Scheme has not been approved by the local planning authority or, if the local planning authority refuses to approve the Scheme, or fails 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) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.
 - iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable.
- 8) The development hereby permitted shall be carried out in accordance with the following approved plans:
- Location Plan, Drwg No 09_319_001
 - Existing site, Drwg No 09_319_002
 - Proposed site, Drwg No 09_319_003
 - Utility room/dayroom indicative layout and elevation, Drwg No 09_319_04

APPEARANCES

FOR THE APPELLANT:

Matthew Green	Agent for the appellant
John Searle	The appellant
John Searle (Junior)	The appellant's son

FOR THE LOCAL PLANNING AUTHORITY:

Tim Dawes	Manager, Development Control, Guildford Borough Council (GBC)
Dan Ledger	Senior Planner, Development Control, GBC
Heather Sandall	Senior Planner, Policy, GBC

INTERESTED PERSONS:

Cllor Nigel Sutcliffe	County Councillor for Worplesdon
Cllor Diana Lockyer-Nibbs	Ward Councillor for Normandy
Tim Harold	CPRE Guildford District
Mr and Mrs David Bilbé	Local resident
Annalisa Lill	Local resident
Mrs Barnsdale	Local resident
Gordon Holliday	Local resident
Brenda Windsor Brown	Local resident
Colin Lungley	Local resident