The Planning Inspectorate

Appeal Decisions

Hearing held on 22 November 2011
Site visit made on 22 November 2011

by Paul Dignan MSc PhD

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

Decision date: 1 February 2012

Appeal A: APP/W1715/A/11/2160276
Costalot Stables, Blind Lane, West End, Southampton, SO30 2HJ.

- 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 Jimmy Bowers against the decision of Eastleigh Borough Council.
- The application Ref. F/11/68768, dated 3 March 2011, was refused by notice dated 13 July 2011.
- The development proposed is: Temporary siting of a mobile home for 3 years to house a gypsy family with associated structures.

Appeal B: APP/W1715/A/11/2157068
Costalot Stables, Blind Lane, West End, Southampton, SO30 2HJ.

- 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 Jimmy Bowers against the decision of Eastleigh Borough Council.
- The application Ref. F/11/68767, dated 1 March 2011, was refused by notice dated 13 July 2011.
- The development proposed is: Retention of replacement barn.

Decision

Appeal A

1. The appeal is allowed and planning permission is granted for temporary siting of a mobile home for 3 years to house a gypsy family with associated structures at Costalot Stables, Blind Lane, West End, Southampton, SO30 2HJ, in accordance with the terms of the application, Ref. F/11/68768, dated 3 March 2011, subject to the following conditions:

    1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, structures, materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition in accordance with the site development scheme referred to in condition 5 below.

    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) 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) shall be stationed on the site at any time.

4) No non-equestrian commercial activities shall take place on the land, including the external storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

5) 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 site development scheme shall have been submitted for the written approval of the local planning authority. The scheme shall include: the internal layout of the site, including the position of the caravans, the extent of hardstanding, parking and amenity areas; proposed and existing external lighting on the boundary of and within the site; the means of foul and surface water drainage of the site; the positions, design, materials and type of boundary treatment; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; a specification for the restoration of the land following the cessation of the use; a timetable for implementation of the scheme.

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 refuse to approve the scheme, 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) 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.

Appeal B

2. The appeal is allowed and planning permission is granted for retention of replacement barn at Costalot Stables, Blind Lane, West End, Southampton, SO30 2HJ, in accordance with the terms of the application, Ref. F/11/68767, dated 1 March 2011, subject to the following conditions:

1) The development hereby permitted shall be carried out in accordance with the following approved plans : E/381/AK/001, E/381/AK/002 and E/381/AK/003.

2) The barn hereby permitted shall be used only for equestrian purposes, including the shelter of horses and the storage of horse related equipment, food and bedding.

3) If the use of the building for the purposes hereby permitted permanently ceases, then within three years from the date on which the approved use of the building ceased, unless the local planning authority have otherwise agreed in writing, the building shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been otherwise agreed in writing by the local planning authority.

Procedural and Preliminary Matters

3. The Appeal A site is currently being used for residential purposes by the appellant and his family. The Appeal B barn has already been constructed.

4. The application the subject of Appeal A was for a temporary planning permission, but the Design and Access Statement submitted with the application proposed that a permanent permission should be granted, and this view was also put forward at the hearing. However, it was open to the appellant at that stage to make an application for permanent planning permission, but the application was made as a re-submission of an earlier application for temporary planning permission, and hence attracted no additional fee. In view of this I am satisfied that the Council was entitled to treat the application as one for temporary planning permission, and it was advertised and consulted upon as such. I consider that to deal with the appeal as relating to permanent planning permission would go beyond what could be considered as a minor modification, and I could not be certain that a legitimate interest would not be prejudiced. Accordingly I have dealt with the appeal as against the refusal of temporary planning permission, as set out in the description of the development in the application.

5. The Council accept that the applicant and his family should be regarded as gypsies for the purposes of planning policy, and I agree.

6. The Secretary of State has announced that he intends to revoke Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites, and the government has published a consultation draft Planning Policy Statement on Planning for Traveller Sites. Its National Planning Framework is also at the draft stage. The materiality of these documents to the appeal was discussed at the hearing. Whilst regard has been had to them as material considerations, they are subject to change and therefore little weight attaches to them. In the meantime, the Circular remains in place and regard should still be had to it.

Main Issue

7. The main issue in both appeals is the physical and visual impact of the development on the character and appearance of the countryside having regard to the site's location within a rural area and the Horton Heath and Hedge End Local Gap.

8. In respect of Appeal A, if I find that the proposal is likely to result in material harm, in view of the acknowledged gypsy status of the appellant, I would need to consider whether any such harm is outweighed by other material considerations so as to justify the grant of temporary planning permission.

Appeal A

9. The appeal site is located a short distance south of Horton Heath. To the north of the site are residential properties along Blind Lane and Botley Road at the southern tip of Horton Heath. The land to the west, south and east is mainly agricultural fields and paddocks, although there is further residential development on the opposite side of Blind Lane to the south. The northern part of the site where it adjoins residential development is an area of mainly hard standing, while the southern part is a paddock used for keeping horses. There is currently a mobile home on the site and this is proposed to be stationed close to, and parallel with, the northern boundary. A touring caravan would also be kept on site when not being used for work-related travel. Also on the site are a timber clad day room

alongside the northern boundary and various sheds, including a former railway carriage near the site entrance and a field shelter in the horse paddock. The appeal B barn is located about midway along the western boundary, with the access road to the barn from Blind Lane running between the northern and southern parts of the appeal site. The site boundaries are predominantly dense hedgerows of varying height.

10. The appeal site adjoins residential development and is semi-rural in character. In line with the guidance in paragraph 54 of Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites, it is an appropriate location for the proposed use. For planning policy purposes it is in open countryside where new development is normally strictly controlled. However, saved Policy 87.H of the adopted Eastleigh Borough Local Plan (Review (2001-2011) (LP) is permissive of gypsy sites in the countryside provided that they do not have an unacceptable impact on the character and appearance of the countryside, subject to criteria relating to access to facilities and to access and parking, neither of which are at issue here.

11. The proposed residential area is generally well screened from Blind Lane by the roadside hedgerows. Where it can be glimpsed across the fields from the western end of the lane it blends well with the adjoining residential development. The surrounding topography is generally flat, but slightly higher ground in the vicinity of the B3342/B3354 roundabout to the south-east enables the site to be seen in longer distance views. Notwithstanding that gypsy sites are not an unusual nor necessarily an incongruous sight in the countryside, the present siting of the mobile home, set away from the boundary and side-on to the roundabout, gives it an undue visual prominence. In this open location it would be particularly noticeable when lit at night time. The proposed siting close to the northern boundary and end-on to the roundabout, would, however, be entirely satisfactory. The mobile home would still be visible, but it would not be obtrusive. At night time the lighting would blend with that of the adjoining residential development and would not, in my view, be unduly visually intrusive. A location for a touring caravan has not been identified on the application plans, but there is ample scope on the site to ensure that it could be kept in a location where it would not have a harmful visual impact, and this could be secured by condition. Overall I am satisfied that the proposed development would not have a detrimental effect on the area in terms of visual impact.

12. Moreover, the area that is currently being used, and is proposed to be used, for residential purposes was previously occupied by a variety of prefabs, barns or sheds. Most of these have now been removed, but their concrete bases remain and account for much of the existing hard standing. One of the barns was renovated and is now the dayroom. The existing septic tank also dates from the previous use. Photographic evidence indicates that the site had become quite derelict before the former buildings were removed by the appellant and his father, and a letter of support from the adjoining residential neighbour describes its previous condition as ".. a shambolic assortment of postwar prefabs and ramshackle barns infested with vermin." He goes on the describe the present condition of the site as "..a much nicer site for all living nearby." Referring to examples such as previously developed, untidy or derelict land, paragraph 55 of Circular 1/2006 notes that the establishment of a well-planned or soft-landscaped gypsy and traveller site can be seen as positively enhancing the environment and increasing openness. Whilst it is evident that the site is now well laid out and maintained in good order throughout, in the absence of the former buildings I am unable to draw a firm conclusion in terms of enhancement of the environment. Nonetheless, I am satisfied that there

has been no loss of openness, so that the physical impact, or encroachment on the countryside, does not weigh against the proposal.

13. The site is also within a designated local gap, in this case the Horton Heath and Hedge End Local Gap. The purpose of local gaps, as set out in Policy 3.CO of the Eastleigh Borough Local Plan (Review (2001-2011) (LP), is to protect the separate identities of smaller settlements at risk of coalescence. Development should not diminish the gap physically or visually. In this case, having regard to the previous development on the site and to my conclusion on visual impact, I consider that the development would not diminish the gap physically or visually. I consider, therefore, that the objectives of the policy would not be compromised by the development.

14. My overall conclusion on the main issue is that the proposal would not have a harmful physical and visual impact on the character and appearance of the countryside or the Horton Heath and Hedge End Local Gap. I consider that the proposal is acceptable on its merits, by reference to the relevant Local Plan policies. Along with those mentioned above, these include Policy 18.CO, which seeks to protect the intrinsic character of the landscape, and Policy 59.BE, which, amongst other things, requires development to take account of the context of the site, including the character and appearance of the surrounding area. It follows that it is not necessary to establish whether there are other material considerations to justify the proposal.

Appeal B

15. It is not disputed that the barn replaces a barn of similar footprint that was in roughly the same location. Nor is there any issue with regard to the need for, and acceptability of, a barn on the site for the purposes of stabling horses and storing feed and bedding. The Council considers however, that it is larger than required for its intended purpose. Its main concern relates to the visual impact of the building due to its height and the light colour of the roof cladding.

16. The barn is a standard A-frame steel clad building of a type commonly seen in the countryside. At some 3.5m at the eaves and 4.7m at the ridge, it is higher than would be needed solely for stabling horses and storing feed and bedding. The particular need for a barn of this height is to accommodate the storage of horse carriages or traps. There are stored upright to save space, and I could see on my site visit that the upright storage of the carriages required a building of this height.

17. The appellant's business involves the breeding, trading, breaking and training of horses. He has between 20 and 40 horses at any one time, based at the appeal site and about 40-50 acres rented locally. The appeal site is the only land he owns and is the preferred location for secure storage, as well as being the centre of his operation. The appellant is keen to ensure that he and his family continue to lead a traditional gypsy way of life, travelling regularly to horse fairs and related events. The carriages are clearly valuable items which require secure storage and are undoubtedly an integral part of the appellant's livelihood. Having regard to the extent of the appellant's business, I consider that the size of the barn is not excessive in terms of need. It supports the economic and cultural needs of the appellant.

18. As with the residential site in appeal A, the main public views of the barn would be long distance views from the vicinity of the B3342/B3354 roundabout. From there it is more visually prominent than it would be if it was lower in height, and the

contrast between its light grey roof and green cladding is noticeable. Having said that, it does not appear unusually or overly high, nor does it appear as anything other than a normal agricultural building that one would expect to see in a countryside location. Agricultural buildings typically involve some visual harm, but are acceptable in the countryside since they are necessary and must be located there, so that the visual harm is outweighed by the need. In this case I consider that there is sufficient need to justify the development and thus outweigh the very limited visual harm to the Horton Heath and Hedge End Local Gap. I consider therefore that the development does not conflict with LP Policy 3.CO.

Conditions

Appeal A

19. Since the application is for a gypsy site, and I have had regard to the guidance in Circular 1/2006 in coming to my conclusions, I consider that an occupancy condition, whereby the site could only be occupied by a gypsy and traveller meeting the planning definition, is necessary. My findings did not rely on the appellant's personal circumstances and hence it is not necessary to attach a condition restricting the use to any particular person/s. A condition to require restoration of the site when the occupation ceases is necessary in order to protect the character and appearance of the site and surrounding area. In order to safeguard residential and visual amenity it is also necessary to limit the number of caravans using the site and to preclude non-equestrian commercial activity and the parking of larger commercial vehicles. The submission of a site development scheme will enable outstanding details to be confirmed and to ensure that the site layout and associated works respect the environment. Whilst this may include some additional planting or landscaping to assist with integrating the development into its surroundings, in view of the overall acceptability of the proposal and the temporary nature of the permission, I consider that a separate landscaping and maintenance scheme would be excessive.

Appeal B

20. In view of the equestrian justification for the barn, and in the light of the Highway Authorities comments that a different use might have unacceptable traffic implications, I consider that a condition restricting its use is necessary and appropriate, in the interests of the character and appearance of the area and highway safety. In the same vein, if the permitted use ceases I shall also require its removal. A suggested landscaping scheme is not necessary to make the barn acceptable. For clarity, and in the interests of good planning, I shall require that the development accords with the approved plans.

Conclusions

21. Having considered all other matters raised, I conclude that both appeals should be allowed.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Angus Murdoch BA(Hons) MSc PhD MA MRTPI	Murdoch Planning
Jimmy Bowers	The appellant
Michael Bowers	The appellant's father

FOR THE LOCAL PLANNING AUTHORITY:

Gary Osmond	Eastleigh Borough Council

DOCUMENTS

1 Council's letter of notification of the hearing (Appeal A).
2 Mr Michael Bower's responses to a Planning Contravention Notice in respect of the residential use of the site.