Eastleigh Borough Council

Town and Country Planning Act 1990

Statement of Local Planning Authority

Planning Inspectorate Reference No: APP/W1715/A/11/21602761/NWF

Local Planning Authority Reference No: F/11/68768

Appeal Site:
Costalot Stables
Blind Lane
West End
Southampton
SO30 2HJ

Name and Address of Appellant:
Mr Jimmy Bowers
Costalot Stables
Blind Lane
West End
Southampton
SO30 2HJ

1.0 Particulars of the Application/Appeal

1.1 This appeal relates to planning application F/11/68768 which was made valid in April 2011, seeking permission for the retention of a mobile home for use by 1No. Gypsy family and associated structures comprising of an annexe and shed for a temporary period of 3 years.

2.0 Reason for Refusal

2.1 The application was refused by delegated decision on 13th July 2011 for the following reason:

2.2 (1) The mobile home and other associated structures on the application site fail to respect the character and appearance of the site or the surrounding countryside, being overly prominent and visually diminishing the Horton Heath and Hedge End Local Gap to the detriment of the visual amenity and general character of the surrounding area. The application is therefore considered to be contrary to saved Policies 3.CO, 18.CO, 59.BE i. and 87.H iii. of the Eastleigh Borough Local Plan Review (2001-2011).

3.0 The Appeal Site and Surroundings

3.1 The application site is within designated countryside and local gap

and is surrounded by agricultural fields and paddocks to the east, south and west. To the north of the site are a number of residential properties at the southern tip of Horton Heath. The site lies at the eastern end of Blind Lane, just over 100 metres from its junction with the main Botley Road (B3354). Not far to the south-east of the site is Denham's Corner a busy roundabout where Botley Road, Winchester Road, Bubb Lane and Snakemoor Lane meet.

3.2 The site is split into two main areas, an area of mainly hard standing along the northern side of the site and an area of rough paddock used for grazing horses to the south. As well as the mobile home there are a number of other structures on the site including a timber 'day room', a small stable block, a number of storage sheds, including an old railway wagon, a small summerhouse and a steel barn which is the subject of a separate linked appeal. Most of these structures sit on hard standing and the foundations of now demolished buildings. The site is accessed via Blind Lane through a set of decorative gates on brick piers. The majority of the site boundaries are marked by either timber post and rail or post and wire fencing or close board fencing with a hedge behind these. There are also a few small trees within this hedge but nothing of any significant size, except towards the southern end of the site.

3.3 In terms of the site's topography the northern half of the application site where the Mobile Home and most of the other structures are located is relatively flat and level, with the remainder of the site sloping down in a generally south-easterly direction towards Denham's Corner, which sits at approximately the same level. However, the land between the site and Denham's Corner falls resulting in a small valley, meaning that the site and the structures upon it are quite visible and conspicuous from the roundabout.

4.0 Planning History

4.1 Recently there have been two planning applications relating to the appeal site as well as the application the subject of this appeal statement, one for the retention of the mobile home for a temporary period and the other for the retention of the barn, the appeal of which is linked to this appeal. Both of these applications were refused on the same grounds as this current appeal, i.e. visual impact upon the surrounding countryside and local gap. The reference numbers for these applications are F/11/68767 (Barn) which was refused in July 2011 and F/10/67523 which was refused in November 2010.

4.2 Other than these two applications and the appeal application there has been no other recent planning history relating to the site. However, there have been previous applications for the siting of caravans and the construction of dwellings, the earliest being in 1960 and the last in 1987, all of which were refused.

4.3 It is unclear exactly what the site has been used for in the past but it appears to have been used for various agricultural purposes and did have a number of buildings associated with that use which have since been removed.

4.4 There is a Planning Enforcement case open on the site which is currently in abeyance pending the result of these appeals. During the investigation it has been found that there are discrepancies with the information provided by the appellant on a Planning Contravention Notice dated 20/09/2011 and the Design Access Statements relating to the application which is the subject of this appeal and the previously refused application relating to this site, in respect of who is resident on the site. The LPA are still investigating these issues.

5.0 Relevant Planning Policies & Guidance

5.1 The relevant planning policies in this case are saved Policies 3.CO, 18.CO, 59.BE (i) and 87.H of the Eastleigh Borough Local Plan Review (2001-2011) which was adopted in May 2006.

5.2 Policy 3.CO relates to designated local gaps and states that planning permission will only be granted for appropriate development which cannot be acceptably located elsewhere and which would not physically or visually diminish a local gap.

5.3 Policy 18.CO relates to landscape character and states that 'Development which fails to respect, or has an adverse impact on the intrinsic character of the landscape, will be refused.'

5.4 Policy 59.BE requires development to be sympathetic to its locality and avoid undue impact on neighbouring uses. Criterion (i) requires that development proposals "take full and proper account of the site including the character and appearance of the locality and are appropriate in mass, scale, materials, layout, density, design and siting both in themselves and in relation to adjoining buildings, spaces and views".

5.5 Saved Policy 87.H specifically relates to proposals for Gypsy sites and states that sites will be considered acceptable provided they meet three criteria:

i) they are within a reasonable distance of schools, medical services, shops and other facilities;
ii) they should make appropriate provision for access and parking; and
iii) they should not have an unacceptable impact on the character or appearance of the countryside.

5.6 Copies of the relevant Local Plan policies have been provided with the questionnaire.

5.7 As has been mentioned in the Head of Regeneration and Planning Policy's detailed comments submitted with the Questionnaire, the South East Plan has been revoked and the Gypsy policies within it no longer apply. There are also plans to revoke Circular 01/06: 'Planning for Gypsy and traveller caravan sites' which sets out the national planning stance on this issue and replace it with new light-touch guidance putting the onus on Gypsy families to find a Gypsy site. As this Guidance is yet to be published, the Circular is still a material consideration however its weight has been reduced to some degree.

5.8 The role of the former South East Plan was to apportion site requirements for Gypsies attracted to districts and boroughs in the region for inclusion in the Local Development Frameworks (LDFs) which were to replace Local Plans. In the absence of the South East Plan the local Gypsy and Traveller Accommodation Assessments (GTAA) and the Strategic Housing Market Assessments (SHMAs) will be used for the purposes of the appeal. These documents have yet to be updated.

5.9 At the time of writing a new draft local plan is being prepared for its initial consultation and will be out to consultation by the time of the appeal hearing. This includes a new Gypsy policy which like the current Policy 87.H is intended to be criteria based and requiring similar criteria to be met.

5.10 Accordingly current proposals for Gypsy sites must be considered under the policies of the adopted Eastleigh Borough Local Plan Review, current GTAA and Central Government Guidance, in particular:

- Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites
- PPS 1 – Delivering Sustainable Development.
- PPS 7 – Sustainable Development in Rural Areas.

6.0 Council's statement of case

6.1 In endeavouring to keep up to date with current Central Government Guidance the LPA in terms of the draft National Planning Policy Framework take the view that as this is a consultation document, which is still under review, the contents of which may well be subject to substantial change as a result of the consultation process. Accordingly minimal weight can be afforded to this draft guidance at this stage. The LPA consider that this is ultimately for the appointed Inspector to determine how much weight can be attributed to a draft document in assessing the merits of the appeal.

6.2 However, in reference to this particular appeal the LPA is supportive of the guidance within the National Planning Policy Framework in that it rolls forward the guidance that the planning system is plan-led and

Local Plans are the starting point for the determination of any planning applications or appeals (paragraph 62).

6.3 Accordingly Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "...if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise." Therefore, this application should be assessed against the policy guidance contained within the Eastleigh Borough Local Plan Review (2001-2011) adopted May 2006.

6.4 The appeal site is located outside of the urban edge within designated countryside where the general presumption is against development, unless for agricultural or horticultural purposes, or genuine outdoor recreational use where a countryside site is required. Given that the appellant runs an equine business the LPA is satisfied that the use of the site for this purpose is acceptable. However, no justification for the need to reside on the site has been provided.

6.5 It is noted that as part of recent applications on the appeal site the appellant has stated he is a Gypsy. The LPA wish to make it clear that this is not disputed.

6.6 The mobile home currently sits in a fairly central position at the end of the area of hard standing to the northern part of the site and on a concrete base, which formed the footings of one of the original buildings on the site. To the south of this, between the mobile home and the new barn, is a timber summerhouse. To the north is the timber clad and red tiled dayroom or annexe, another summerhouse/shed, a dog kennel/chicken coop and a children's slide. Near the entrance to the site is an old railway wagon used for storage and in the southern corner is a small stable. In addition to all of these structures is the steel barn to the western edge of the site, which is subject to a separate appeal.

6.7 The purpose of saved Policies 3.CO and 18.CO are to protect the visual appearance, character and amenity of the countryside, which is further backed up by Policy 59.BE (i) which ensures appropriate and well designed development. This need to protect the countryside is reiterated within Policy 87.H, which sets out three requirements, the need for appropriate accessibility, access and to have no unacceptable impact upon the character or appearance of the countryside.

6.8 **Accessibility** – The first criteria of Policy 87.H states that Gypsy sites should be within a reasonable distance of schools, medical services, shops and other facilities. While the application site is within designated countryside it lays just outside of the urban edge to the south of Horton Heath. This would appear to be a fairly good location

however Horton Heath is almost entirely residential in nature and lacks many community facilities. The closest schools, doctors and main shops are in Fair Oak, Botley or Hedge End, which are not easily accessed by foot, cycle or public transport, meaning that occupiers of the site would be very reliant on the car to access these facilities.

6.9 Given that this is the case it could be argued that the application does not meet the requirements of the first part of Policy 87.H. However, it is in very close proximity to Horton Heath which is an established settlement that has the same issues of accessibility. It was therefore considered difficult to justify a reason for refusal on these grounds and felt that the application met the requirements of the first part of Policy 87.H.

6.10 **Access & Parking** – The second criteria of Policy 87.H states that sites should make appropriate provision for access and parking. Notwithstanding that the site is within the countryside where the principle of new residential development is not acceptable, it is more than capable of accommodating the necessary parking provision. In terms of access, Blind Lane is a poor site for residential accommodation as it lacks any footways, lighting and is a difficult junction from which to exit onto the main road. However, the Head of Transportation and Engineering did not raise any objection on highway safety grounds. It was gain therefore felt difficult to justify a reason for refusal on these grounds.

6.11 **Impact on Countryside** – The final part of Policy 87.H states that proposals should not have an unacceptable impact on the character or appearance of the countryside, something reiterated by Policy 18.CO as well as 3.CO of the local plan. This is also backed up by Policy 59.BE (i) which states that proposals must take full and proper account of the context of the site and surrounding area.

6.12 Whilst the application site is bounded by two metre high hedging and the odd tree, due to the topography in the area the mobile home and most of the other structures on the site sit on a slight rise in the ground. This makes the mobile home in particular very prominent and conspicuous over the top of the boundary hedge when viewed from the Denham's Corner roundabout, especially at night when its lights can be clearly seen and also during the day because of its light colour. The application proposed to alter its position, placing it along the northern boundary adjacent to the dayroom, rather than the current more central position. However, this is considered to be an equally prominent position as this is the highest part of the application site. Therefore, any structure in this top north-eastern corner of the site will be very visible.

6.13 The neighbouring dayroom building is even more prominent due to its height and the bright materials used in its construction and is easily visible from both Denham's Corner to the east of the site, as well as

Blind Lane and the fields to the west. It is accepted that glimpses of neighbouring dwellings to the north are visible from the countryside to the west but these have minimal impact as they are constructed of more muted materials and are softened and enclosed by mature trees.

6.14 The structures on the application site sit in quite stark contrast to this and are considered to result in an adverse impact upon the character and appearance of the countryside and local gap designation of the site. The application does propose some new trees to screen the mobile home and other structures from Denham's Corner but these would need to be of a substantial size and take more than the three year temporary period applied for to mature sufficiently in order to provide adequate screening. This proposed landscaping also does not address views of the site and the structures on it from the open countryside to the west.

6.15 Accordingly, the retention of the mobile home and its associated structures would cause unacceptable harm to the character and appearance of this rural area and together with the barn and other structures on site is contrary to policies 3.CO, 18.CO, 59.BE (i) and 87.H (iii) of the local plan aimed at protecting the rural environment. These policies accord with the thrust of Central Government advice contained in PPS 7 that aims to protect the countryside by preventing unacceptable development. There is also concern that if allowed further unauthorised structures may be erected on the site adding further to its impact upon the surrounding countryside.

7.0 Grounds of Appeal

7.1 In response to the appellant's agent's grounds of appeal the LPA believe that this statement addresses the matters raised.

8.0 Conclusions

8.1 It is LPA's opinion that the mobile home and other associated structures on the appeal site fail to respect the character and appearance of the site or the surrounding countryside, being overly prominent and visually diminishing the Horton Heath and Hedge End Local Gap contrary to saved Policies 3.CO, 18.CO, 59.BE (i) and 87.H (iii) of the adopted Eastleigh Borough Local Plan Review (2001-2011).

8.2 The Local Planning Authority therefore respectfully request that the Inspector upholds the reason for refusal and dismisses the appeal.

8.3 However, should the Inspector be minded to grant permission the Local Planning Authority would wish that the attached conditions are included as part of any approval.

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Suggested Conditions

(1) The development hereby permitted shall be carried out in accordance with the following approved plans: E/381/AK/001a, E/381/AK/002b, E/381/AK/003a & E/381/AK/004. Reason: For the avoidance of doubt and in the interests of proper planning.

(2) The occupation of the site hereby permitted shall be carried on only by Mr Jimmy Bowers and his immediate dependants. Reason: The circumstances of the applicant are a material consideration in the application.

(3) The permission hereby granted shall be for a limited period expiring on 31st December 2013. At the end of this period the mobile home and other associated structures hereby permitted must be removed and the site restored to a level condition and left to grown naturally. Reason: The development is of a type not considered suitable for permanent retention.