The Planning Inspectorate

Appeal Decision

Hearing held on 17 January 2012
Site visit made on 17 January 2012

by Bern Hellier BA (Hons) MRTPI

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

Decision date: 29 February 2012

Appeal Ref: APP/K2420/A/11/2161662
Land adjacent to Hissar House Farm, Leicester Road, Hinckley

- 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 F Price against the decision of Hinckley and Bosworth Borough Council.
- The application Ref 11/00377/FUL, dated 27 May 2011, was refused by notice dated 27 July 2011.
- The development proposed is the siting of two mobile homes and erection of toilet and laundry room for a gypsy family.

Decision

1. The appeal is dismissed.

Background

2. The name of the applicant and appellant on the submitted forms is shown as Mr C Price. However this refers to a nickname and the correct name is Mr Freddie Price. I have amended the appeal details accordingly. He is seeking to develop two pitches. On each pitch would be one mobile home and one touring caravan. It was agreed that the description of the application should be amended to *change of use to two gypsy caravan pitches with one mobile home and one touring caravan on each pitch and erection of toilet and laundry room.*

3. One pitch would be occupied by the appellant and his wife (Mr and Mrs Price) and the other by his niece and her husband (Mr and Mrs Lee) together with their three children. Both the appellant and Mr Lee are engaged in landscape and general contracting work in the Leicestershire area which involves travelling. Neither was present at the hearing but from this limited information it is likely that both the appellant and Mr Lee fall within the definition of gypsies and travellers in Circular 01/2006[1]. This was not disputed by the Council and I have dealt with the application on this basis.

Main issues

4. I consider there are three main issues.
   - The effect on the character and appearance of the surrounding rural area and its effectiveness as a green gap between Hinckley and Barwell/Earl Shilton.

[1] ODPM Circular 01/2006 *Planning for Gypsy and Traveller Sites*. Paragraph 15

- Whether any other considerations provide support for the proposal.
- Whether these other considerations would be sufficient to outweigh any harm identified in relation to the first issue.

Reasons

Green gap between Hinckley and Barwell/Earl Shilton

5. The appeal site lies adjacent to the Leicester Road (B4668) in an area of countryside between Hinckley and the linked villages of Barwell/Earl Shilton. Land use in the vicinity is mixed although primarily agriculture and recreation. Opposite the appeal site are two sports complexes, the substantial Hinckley Football Club stadium and pitches, and the Leicester Road Sports Ground which includes Hinckley Rugby Club and club house, pitches, bowling green, cricket pitch and tennis courts. Towards Hinckley is a recycling/scrap metal and skip hire business, the open access area of Burbage Common, and Hinckley Golf Club. Towards Barwell is Hissar House Farm, set back from the road, and two dwellings on the roadside.

6. Policy 6 of the Core Strategy (CS)[1] identifies this countryside as a Green Wedge with a role in protecting the separate identity of the three adjacent communities and providing accessible countryside to residents of these urban areas. Within the Green Wedge, in addition to the normal presumption against non essential development in the countryside, is a requirement that its function as a recreational resource and open landscape should be maintained and enhanced. In the future it is anticipated that it would be an amenity not only for existing residents but also for those in a planned major housing development to the north west of Barwell.

7. The Green Wedge is also part of a Green Infrastructure Network for the Borough, the implementation of which is a key Council priority. CS Policy 20 identifies proposed strategic interventions to support this network which include the development of a large scale recreational asset within the Green Wedge.

8. The appeal site is visible from higher land in Barwell and Earl Shilton but, having regard to the existing tree and hedgerow cover and the prominence of the football stand, I do not find that the proposed development would have a significant adverse effect on these longer distance views.

9. However, at close quarters the site is seen through a row of trees from the road and from the adjacent footway/cycleway. From here the proposed mobile homes, touring vans, the toilet/laundry room and associated vehicles would result in a loss of openness which would have a localised but substantial detrimental effect on the character and appearance of the surrounding rural area and its effectiveness as a green gap. The further planting proposed by the appellant would not be successful in mitigating this impact. It would take some years to become established and its usefulness would be limited by a drop in level from the road to the site. The proposal would thus fail to satisfy the provisions of CS Policy 6.

10. In a recent appeal decision[2] outline planning permission was granted for 232 dwellings within the Green Wedge on land adjacent to the golf club. However,

[1] Hinckley and Bosworth Core Strategy. Adopted December 2009
[2] Appeal Ref APP/K2420/A/10/2142660. Allowed 22 July 2011

this site adjoins the existing built up area, forming an infill between this and the golf club buildings and facing an existing developed frontage on the opposite side of the Leicester Road. An officer review of the area of the Green Wedge as part of work on a site allocations development plan document[1] identified this as a site which could be released without damage to its integrity. This decision is not directly comparable with the present appeal proposal which would be situated within the countryside well away from the built up area.

Other considerations

Need for sites

11. There is no dispute that there is a shortage of residential gypsy and traveller pitches. CS Policy 18 identifies the need for 42 pitches between 2007 and 2017[2] with 26 being required between 2007 and 2012. There have been 7 new pitches approved since 2007 giving a shortfall of 35 pitches. In terms of occupancy the County Council owned site at Aston Firs has a long waiting list and there is no spare capacity on existing private sites. On the other hand the January and July 2011 caravan count showed that there was a relatively small number of caravans, 6 and 8 respectively, on unauthorised sites that were tolerated and none on not tolerated sites. Nonetheless, there is no evidence of there being any available alternative sites.

12. The Council intends to bring forward a development plan document (GT/DPD)[3] which will allocate gypsy and traveller sites. However public consultation is not scheduled to commence until the early part of 2013. No estimate of the end date was available but new gypsy sites tend to be controversial and it is unlikely that a new site could be up and running before 2015. Thus there is a shortfall in provision of sites. Whilst this has not led to a large number of unauthorised sites there is no prospect of this shortfall being met through the development plan process in the near future. This unmet need is a significant factor favouring the proposal.

Personal circumstances

13. Both families were displaced from a site that closed about three years ago at Ratby about 20 kilometres away. Since then Mr and Mrs Price have occupied a pitch on an established site at Market Harborough which is about 45 kilometres away although they do not own the site and there is no certainty that it will continue to be available in the longer term. It is stated that Mr and Mrs Lee have no permanent base and that over the last three years they have had temporary stops on pitches belonging to other travellers while they were away or on waste ground. However I was unable to confirm this or to establish their current situation. Their three children are aged approximately between 13 and 16 but again I have no information about their present education arrangements.

14. The principle that both families might need a settled base is acknowledged. Mr and Mrs Price are both in their 60s and nearing retirement and Mr and Mrs Lee have children of school age. Furthermore, Mrs Lee would be in a position to care for her uncle and aunt as they got older. However, information on the

[1] *Site Allocations and Generic Development Control Policies* Development Plan Document. Consultation Draft Preferred Options Report. February 2009
[2] Based on a Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment (2006-16). April 2007
[3] *Gypsy and Traveller Allocations* Development Plan Document.

present circumstances of the two families has been difficult to obtain and, in the case of Mr Lee and his wife, is almost entirely absent. On the evidence before me I consider the accommodation needs and personal circumstances of the two families should be given little weight.

Site sustainability

15. CS Policy 18 reinforces national guidance that gypsy and traveller sites should be in sustainable locations and have regard not only to accessibility but also to highway safety and impact on the local community. In respect of the appeal site the situation is as follows.
    - The site is within walking distance of Barwell, reached along a wide footway/cycleway, where there is a limited range of facilities. There is also a regular bus service into Hinckley which is an important service and employment centre. There would be adequate access to local services and facilities.
    - There is an existing agricultural access onto Leicester Road with good visibility in both directions. Even though there is a 50mph speed limit this is a fast and busy stretch of road and great care is needed when crossing either as a pedestrian or in a vehicle. However the highway authority has not objected in principle and I agree that the proposed use of access would not result in unacceptable highway dangers.
    - The nearest property to the appeal site, Hissar House Farm, is well over 100 metres away. There would be a negligible impact on neighbouring occupiers in respect of outlook, privacy or noise and disturbance. There are occasionally large events held on the nearby sports grounds but there is no reason to suppose these would impact significantly on any future occupiers of the proposed caravans.

16. Thus the proposal would be in a reasonably sustainable location which would meet the relevant criteria in CS Policy 18. This provides additional significant support for the proposal.

Balancing the issues

17. The protection of the Green Wedge and its enhancement as part of a Green Infrastructure Network is a key priority of the Core Strategy and I find that the adverse effect of the proposal on the role of the Green Wedge should be accorded substantial weight. On the other hand significant weight must be attached both to the need for gypsy and traveller sites and to site sustainability. On balance I conclude that the harm to the appearance, character and effectiveness of the Green Wedge outweighs the positive aspects in respect of need and sustainability.

18. Whilst there would be advantages to the appellant and his wife in moving to the appeal site I am not persuaded that their current accommodation is intrinsically unsatisfactory and I have no information on the present circumstances of Mr and Mrs Lee and their family. I do not consider there is evidence that the human rights of either family would be adversely affected. Personal circumstances therefore add little weight in support of the proposal.

19. Since I have attached little weight to the personal circumstances of the appellant, allowing the proposal would set a precedent for other gypsy and traveller caravan site development on land owned by the appellant and elsewhere along the roadside. The cumulative effect of this would be to further

seriously undermine the openness and visual amenity of the Green Wedge. It adds to the site specific harm I have found in relation to the appeal proposal.

Temporary permission

20. There is unmet need and no alternative gypsy and traveller accommodation in the area. Having regard to this and the intention of the Council to identify new sites in its GT/DPD I have considered whether a temporary permission would be a satisfactory alternative means of meeting the need until a new site becomes available. However there is no timetable for the GT/DPD and considerable financial outlay would be necessary to bring services to the site and for site preparation and landscaping. I share the view of the parties that in these circumstances a temporary permission would not be appropriate and would not accord with the policy in Circular 01/2006[1].

Other matters

21. Prior to acquiring the appeal site the appellant met Council officers to discuss his proposal. On the basis of these discussions he then acquired the site and submitted the application. This was recommended for approval by officers. However, application advice from officers is given in good faith but always with the caveat that it does not prejudge the decision. Ultimately it is Councillors who take the decision. So long as their decision is based on proper planning grounds, as has been the case here, Councillors are entitled to take a view that is at odds with an officer recommendation.

22. In coming to my decision I have also had regard to representations from the owner of the adjacent stables. However, it cannot be assumed that the presence of a gypsy family would result in trespass or criminal activity and I have give little weight to this concern. Her legal right to use the shared access would be unaffected by the proposal.

Conclusion

23. For the reasons given above and having regard to all other matters before me I conclude that the appeal should be dismissed.

Bern Hellier

INSPECTOR

[1] Circular 01/2006 paragraph 45

APPEARANCES

FOR THE APPELLANT:

Mr A Statham	Agent
Mr S Clarke	Agent

FOR THE LOCAL PLANNING AUTHORITY:

Miss E Shaw	Area Planning Officer

INTERESTED PERSONS:

Mr D Bill	Borough Councillor
Mr J Bannister	Borough Councillor
Mr M Hulbert	Borough Councillor
Mr D Gould	Borough Councillor, Planning Committee Chair
Mr T Kirkby	Barwell Parish Council
Mr S Baker	Chair Barwell Parish Council
Mr P Dexter	Local resident
Mr D Shires	Local resident
Mr and Mrs Baxter	Local residents
Mrs J Green	Traveller Sites and Liaison Officer, Leicestershire County Council

DOCUMENTS

1 Hearing notification letter 19 December 2011
2 Unredacted Human Rights Questionnaire 14 April 2011
3 Photographs of rugby and soccer club buildings and of the approved housing site adjacent to the golf club submitted by appellant