The Planning Inspectorate

Appeal Decision

Hearing held on 5 July 2011

Site visit made on 5 July 2011

by Clive Hughes BA (Hons) MA DMS MRTPI

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

Decision date: 6 September 2011

Appeal Ref: APP/R3325/a/11/2148267
Land OS 4724 Hare Lane, Broadway, Ilminster, Somerset TA19 9LN

- 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 Darren Whiteway against the decision of South Somerset District Council.
- The application Ref 10/02754/COU, dated 26 June 2010, was refused by notice dated 13 October 2010.
- The development proposed is change of use of land – private gypsy and traveller caravan site – stationing of one mobile home.

Decision

1. The appeal is allowed and planning permission is granted for the use of land as a site for one mobile home (private gypsy and caravan site) at Land OS 4724 Hare Lane, Broadway, Ilminster, Somerset TA19 9LN in accordance with the terms of the application, Ref 10/02754/COU, dated 26 June 2010, subject to the eight conditions set out in the Annex to this Decision.

Procedural matters

2. The Council described the development as the use of land as a site for one mobile home (private gypsy and caravan site). The appellant used this description for this appeal and so it is used in this Decision. The development has commenced, the site is occupied by the appellant and his son. There is a vehicular access, which pre-dates the appellant's occupation, and a caravan is stationed on the site. Vehicle parking has been provided.

Main Issue

3. The main issue is whether the development accords with policies in the development plan and national guidance and advice which promote social inclusion and sustainable patterns of development.

Reasons

4. The appeal site lies in a countryside location outside the defined settlement boundary of Broadway. There is linear housing that runs west from the settlement and along Hare Lane towards the appeal site, but this stops well short of the site. Hare Lane is a narrow country lane without street lighting or footways, and, at the appeal site, is subject to the national speed limit. Broadway, which lies about 1.6km distant, offers a few facilities and services, including a primary school, bus stop, surgery and public house. There are further facilities at Horton, a similar distance away, including a shop.

5. Policies in the *Somerset & Exmoor National Park Joint Structure Plan Review 1991-2011* (2000) and the *South Somerset Local Plan 1991-2011* (2006) seek to promote sustainable patterns of development and minimise the use of the private car. Policy HG11 of the Local Plan, which relates to residential sites for gypsies and travellers, says that such proposals will be permitted (outside of land that is severely constrained such as AONBs and SSSIs) provided certain criteria are met. These criteria include (2) that the site is reasonably well related to schools and other community facilities. Supporting paragraph 10.67 says that such sites should "be *reasonably* convenient for schools and other community facilities such as public transport, shops, health centres and public telephones." The term reasonably, although italicised, is not defined. This policy is broadly restated in the Council's emerging Core Strategy in which bullet point 4 of Policy HG6 repeats criterion (2) of Policy HG11.

6. The development plan pre-dates the publication of ODPM Circular 01/2006 *Planning for Gypsy and Traveller Caravan Sites*. This advises that rural settings, where not subject to special planning constraints, are acceptable in principle. The Circular also states that in assessing the suitability of such sites, local authorities should be realistic about the availability of alternatives to the car in accessing local services. This advice is restated in paragraph 8.50 of the emerging Core Strategy.

7. Some advice concerning the definition of "reasonable distances" is to be found in PPG13 *Transport*, which advises that walking offers the greatest potential to replace short car trips, particularly under 2km, and cycling for journeys under 5km. The Council has previously found distances in excess of those present in this case to be acceptable, although of course there may have been other considerations that led to those decisions. In an appeal Decision in South Somerset, dating from 2009, an Inspector identified a site to be 2.6km from a primary school, 6.5km from a surgery and 10km from a secondary school, and concluded that such distances are not great in this rural location. He concluded that there was no valid objection on grounds of sustainability.

8. In this case the nature of the road would be likely to deter children from walking to the primary school but for any adults there are facilities within a comfortable walking or cycling distance. While the appellant's child is at school in Taunton, to be near his mother, this site could in future be occupied by residents with a need to access the local school. However, the distances are not great and other appeal decisions show that longer distances can be acceptable.

9. I have also given weight ODPM Circular 01/2006 which advises that issues of sustainability should not only be considered in terms of transport mode and distances from services. The Circular sets out other matters which should be considered and these have been carried forward in the emerging Draft PPS *Planning for traveller sites.* While this emerging advice carries limited weight, the fact that it restates this part of the extant Circular is pertinent.

10. The distance of the site from both the settlement boundary and the ribbon of dwellings along Hare Lane reduces the opportunities for the integration of the site occupants with the local community. However, no sites closer to the settlement have been put forward. Indeed, it is common ground between the main parties that there are no alternative sites that are suitable, available and affordable. The Council is not intending to provide any additional sites through the development plan process; it is relying on a supply of suitable sites being

promoted by the gypsy and traveller communities. The provision of a settled base gives the opportunity for the appellant and his son to integrate with the local community in a way which would not be possible with a travelling lifestyle. In these circumstances the lack of opportunities for integration arising from the distance of the site from the established community is not harmful.

11. I conclude that this site is sustainable in terms of the provision of sites for gypsies and travellers; its occupation on a settled basis presents opportunities for the site occupiers to integrate with the local community. There is therefore no conflict with the development plan.

Conditions

12. I have taken account of the conditions discussed at the Hearing. Occupation of the site is limited to gypsies and travellers as any other occupation would not accord with the development plan. As personal circumstances are not relied upon there is no reason to limit the occupation to the appellant and his resident dependants. Occupation of the site is limited to a single mobile home in accordance with the terms of the application. Conditions have been imposed that limit the number of touring caravans on the site to one; prohibit commercial activities; prohibit the erection of any buildings or structures; and restrict the size of vehicles in the interests of the visual amenities of the area. The submission of a development scheme concerning such factors as the site layout, external lighting, gates and landscaping is necessary in the interests of the visual amenity of the area. Details of foul and surface water disposal are necessary as these have not been submitted. A scheme for the access road, visibility, parking and turning facilities is necessary in the interests of highway safety.

Conclusions

13. I recognise that there has been a high level of public concern about this proposal. I have taken full account of the written representations made by the Parish Council and nearby residents in respect of both the planning application and this appeal and of the views of those who participated at the Hearing. With regard to the perception of unfairness arising from the occupation of the site, I have had regard to the fact that the Council has a five-year supply of sites for housing for the settled population but no supply whatsoever for the travelling community. No alternative, suitable, available, affordable sites for gypsies and travellers have been provided; none are proposed. Concerning the unauthorised occupation of the site, it is relevant that the appellant used an agent who sought the views of Council Officers before the first planning application was made in early 2009 and that the Officer supported the proposal and recommended to the Committee that the application be approved. It is only since the appellant had to vacate his previous site that he moved onto the land on 30 April 2011.

14. With regard to highway safety issues, the development would not result in a significant increase in traffic along this country lane and the Highway Authority raised no objections. There is an existing access to the field and adequate visibility can be achieved. The principle of gypsy and traveller sites in the countryside is acceptable and ODPM Circular 01/2006 says that proposals should not be rejected if they would only give rise to modest additional daily vehicle movements. Concerning the visual impact, I have noted the proximity

of the AONB and that the development on the site is only partly screened by existing hedges. The Council's Landscape Architect has not raised a landscape character objection. Conditions have been imposed concerning the siting of the proposed mobile home and the provision of additional landscaping to address this matter. However, it would not be reasonable to require the development to be hidden from public view as this would fail to promote social inclusion. I have taken account of all the other points raised but none are sufficient to outweigh my conclusions on the main issue.

15. Overall, therefore, I conclude that the proposals accord with the provisions of the development plan, the emerging Core Strategy, Government advice and emerging Government advice. I therefore allow the appeal.

Clive Hughes

Inspector

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch BA(Hons) MSc PhD MA MRTPI	Murdoch Planning
Darren Whiteway	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Linda Hayden	Planning Officer, South Somerset DC
Andrew Gunn	Planning Officer, South Somerset DC
Cllr Linda Vijeh	District Councillor, Neroche Ward

INTERESTED PERSONS:

Paul Trueman	Chairman, Broadway Parish Council
Sid Painter	Local resident
Hamish Grant	Local resident
Martin Hallam	Local resident
Margaret Hallam	Local resident
Chris Weatherill	Local resident
Christine Trueman	Local resident
Roger Sanders	Local resident
Christine Brenton	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

1 Appeal decision APP/R3325/A/10/2140256 – Land at Merriott Road, Hinton St George dated 3 June 2011
2 Plan showing boundary of settlement area
3 Bundle of photographs showing caravan on the site

PLANS

A Site location plan
B Site layout plan

ANNEX: Schedule of Conditions

1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

2) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.

3) No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

4) No buildings or structures shall be constructed on the site other than those allowed by this permission.

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, or such longer period as considered reasonable of the date of failure to meet any one the requirements set out in (i) to (iv) below:

   i) within 3 months of the date of this decision a scheme for: the internal layout of the site, including the siting of the mobile home, hardstanding, access drive including its surfacing materials, parking, turning and amenity areas; the means of foul and surface water drainage of the site; proposed external lighting within the site; improved visibility splays at the site access; details of the access gates to Hare Lane; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; (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) within 11 months of the date of this decision the site development scheme shall have 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.

6) There shall be no external lighting on the site other than as approved under condition (5) above.

7) The parking and turning areas as provided pursuant to condition (5) above shall be kept available for such uses at all times for the duration of the development.

8) There shall be no obstruction to visibility greater than 900 mm above the level of the adjoining road within the visibility splays provided pursuant to condition (5) above.