Appeal Decisions
Inquiry held on 14-16 and 21-22 July 2015
Site visit made on 21 July 2015
by Simon Hand MA
an Inspector appointed by the Secretary of State for Communities and Local Government
Decision date: 31 July 2015

Appeal A: APP/Q3630/A/14/2217053
Greenacres Stable Yard, Bittams Lane, Chertsey, KT16
- 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 David Chaulk against the decision of Runnymede Borough Council.
- The application Ref RU.13/0923, dated 12 August 2013, was refused by notice dated 10 December 2013.
- The development proposed is the use of the land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hardstanding and utility/dayroom ancillary to that use.

Appeal B: APP/Q3630/A/14/2224303
Beechcroft Stables, Stroude Road, Egham, Surrey, TW20 9UW
- 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 Ms Joanna Taylor against the decision of Runnymede Borough Council.
- The application Ref RU.13/1249, dated 6 November 2013, was refused by notice dated 24 February 2014.
- The development proposed is the use of the land for the stationing of caravans for residential purposes for 1 No. gypsy pitches along with the formation of 1 No. utility/dayroom.

Appeal C: APP/Q3630/A/14/2227844
Wickham Piggery, Wickham Lane, Egham, Surrey
- 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 Leigh Beach against the decision of Runnymede Borough Council.
- The application Ref RU.14/0052, dated 6 January 2014, was refused by notice dated 23 April 2014.
- The development proposed is the use of the land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of hardstanding and utility/dayroom ancillary to that use.
Decisions

**Appeal A: APP/Q3630/A/14/2217053**

1. The appeal is allowed and temporary planning permission is granted for the use of the land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hardstanding and utility/dayroom ancillary to that use at Greenacres Stable Yard, Bittams Lane, Chertsey, KT16 in accordance with the terms of the application, Ref RU.13/0923, dated 12 August 2013, subject to the conditions in Annex A – Conditions.

**Appeal B: APP/Q3630/A/14/2224303**

2. The appeal is allowed and planning permission is granted for the use of the land for the stationing of caravans for residential purposes for 1 No. gypsy pitches along with the formation of 1 No. utility/dayroom at Land at Beechcroft Stables Stroude Road, Egham, Surrey, TW20 9UW in accordance with the terms of the application, Ref RU.13/1249, dated 6 November 2013, subject to the conditions in Annex B - conditions.

**Appeal C: APP/Q3630/A/14/2227844**

3. The appeal is dismissed.

**Main Issues in the Appeals**

4. All three sites lie in the Green Belt and it is accepted that all three represent inappropriate development. For appeal A, Bittams Lane, the Council also consider that the openness of the Green Belt is harmed as are two of the purposes of including land in the Green Belt, countryside encroachment and preventing unrestricted sprawl. They also consider the landscape would be fragmented, contrary to policy NE10 and there is a noise issue from the M25. For appeal B, Beechcroft Stables, the Council accept the site is already developed with the stable buildings. The proposed mobile home would be hidden from site within the stables compound, the hardstanding already exists and the day room would be housed in an existing building. Therefore they have no landscape issues with appeal B and oppose it solely on the ground of inappropriate development. However the appellants point out there would still be a minimal impact on openness. On appeal C, Wickham Lane, the Council contend the site also harms the openness of the Green Belt and three of the reasons for including land in the Green Belt, countryside encroachment, unrestricted sprawl and to prevent neighbouring towns from merging. They also have a landscape objection because the proposal would harm the visual amenity of the area and also would lead to fragmentation contrary to policy NE10. In all three cases the Council do not consider the personal circumstances of the appellants are compelling. These are all main issues in this appeal, as is the status of policy NE10.

5. The Council accept that they do not have a 5 year supply of gypsy sites, or indeed any supply of gypsy sites. They also accept there is a backlog of sites and that, given the high proportion of land within the Borough that is Green Belt, that the majority of any new gypsy sites would be located in the Green Belt. They have an up to date Traveller Accommodation Assessment (TAA), which was completed in December 2014. The appellants challenge the figures
contained in the TAA and argue there has been a complete failure of policy on the part of the Council. This is rejected by the Council and is a further main issue in this appeal.

**Policy Background**

6. The Council do not have an up-to-date local plan. Their draft local plan was withdrawn in July 2014 following fundamental concerns raised by the Inspector. A new draft local plan is being progressed. This will include any proposed gypsy sites within a general housing allocations Development Plan Document. The Council have already withdrawn their October Local Development Scheme as the timetable for the new local plan was unrealistically short. Their proposed timetable now envisages submission to the Secretary of State in winter 2016 and adoption in 2017. They accepted at the Inquiry this was possible only if everything went exactly according to plan and there were no major disputes, challenges etc. Given that the location of most new development would be in the Green Belt which would be highly controversial, I cannot share their optimism and consider adoption in 2017 to be unlikely.

7. The Council rely on saved policies GB1 and NE10 from the Runnymede Local Plan Second Alteration (2001). GB1 is a standard Green Belt policy, although rather oddly worded. For example the ‘comment’ section explicitly excludes infilling, which is contrary to the NPPF. I agree with the appellants that the Council’s case is unaffected if I rely solely on the Green Belt policies in the NPPF.

**Policy NE10**

8. NE10 is entitled Landscape Problem Area. The wording of the policy is “In the landscape problem area……the Council will seek to improve the appearance of the landscape through development control and other powers and negotiations…..”. The sites in Appeals A and C are directly affected by this policy. Site A lies in the ‘Southern Green Belt Areas’, where the ‘comment’ in the policy describes the landscape as “fragmented”, with “sporadic and untidy development”. Site C lies in the ‘Thorpe Lea Area’, where there are “areas of fragmented land and truncated roads”. In both areas the landscape could be “improved”.

9. The appellants argue that the way the policy is worded it cannot be used to refuse development. It is a positive policy supporting developments that do actively improve the landscape but there is nothing in it that says development that would harm or fragment the landscape further ought to be refused. They quote from a recent Secretary of State decision where he found the policy supported a gypsy site that would improve the landscape.

10. In my view it is obvious that a development that improved the landscape would fall within the ambit of NE10. However, if the Council granted permission for development that actually harmed the landscape in one of the defined areas, they would not be using their development control powers to improve the appearance of the landscape, as required by the policy, and so such a decision would be contrary to that policy. After all if the policy said harmful development should be refused I doubt anyone would argue that positive

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1 APP/Q3630/A/12/2169543 Decision dated 11 July 2013
development should not be allowed because there was no mention of it in the policy.

11. The appellant further argues that if I reach this conclusion then the policy acts as a blanket policy refusing all development that harms the landscape and this is contrary to the NPPF which seeks only to protect designated and valued landscapes. However NE10 only operates within certain defined areas within the Green Belt and so is not a blanket ban. Also the NPPF does seek in paragraph 81 for Councils to “plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land”. Again in my view it would be contrary to the NPPF policy to allow development that actively did the opposite.

12. I would not go as far as the Council and argue that all proposals that failed to improve the landscape should be refused, the policy is silent on proposals whose effects are neutral, but in my view proposals that clearly harmed the landscape would be contrary to NE10 and in that sense I find the policy is relevant to appeals A and C.

The Green Belt Review

13. Because of the situation regarding the lack of non-Green Belt land in the Borough the Council have already undertaken a Green Belt Review. This has identified various parts of the Green Belt that the Council could consider taking out of the Green Belt. Site A is in one of those areas, but neither of the other two sites are. The Council point out this is not a policy document but simply a piece of evidence for the Council to consider as part of the local plan process. I agree that there is clearly no suggestion that as yet the Council are likely to remove Site A from the Green Belt. However, the Council have agreed that most new gypsy sites will have to be in the Green Belt and they have produced a review which does identify this as one area which could be removed. At the least it suggests a general direction of travel which I shall need to consider in the balancing stage of the decisions.

Green Belt Policy

14. The Council argue that the proposed development at Bittams Lane is contrary to two of the purposes of including land in the Green Belt, countryside encroachment and preventing unrestricted sprawl and that at Wickham Lane is contrary to three of the reasons for including land in the Green Belt, countryside encroachment, unrestricted sprawl and to prevent neighbouring towns from merging.

15. The reasons for including land in the Green Belt are set out in paragraph 80 of the NPPF, the first is to “check the unrestricted sprawl of large built up areas”. I agree with the appellant that neither site is located near to a large built up area and so unrestricted sprawl is not an issue. The development at Wickham Lane would also not have any effect on the merging of neighbouring towns. However there is an issue relating to “safeguarding the Countryside from encroachment” and I shall deal with that below.

Traveller Accommodation Assessment (TAA)

16. There was considerable discussion at the Inquiry as to the validity of the TAA. In 2013, which is the baseline date of the TAA, it identified a 15 year
requirement of 117 pitches, of which 71 should be provided in the first five years. The figure of 71 included the existing shortfall that had developed since the adoption of the 2001 local plan. This has been updated by the Council so that in 2015 the first five years figure is 78 and the overall 15 years figure is 125 (ie up to 2030). The appellants argued that the real figures should be 91 in the first 5 years (from 2013) and a further 91 for the next 15 years (ie up to 2033), or 182 in total. The five year requirement measured from 2015 would thus be 101.

17. In my view the situation outlined by the Council is already serious. The historic success rate of gypsy site applications in the Borough was discussed, and the Council granted permanent permissions in 1983 for 15 pitches; 1998 for 1 pitch and 2011 for 5 pitches. Three temporary pitches were granted in 2013. In other words since the date of the current local plan (2001) the Council have allowed only one permanent gypsy site. There would need to be a step-change in attitude towards gypsy site provision if a shortfall of 78 pitches is going to be made up in the first five years of the new local plan period, bearing in mind that by the time the plan is adopted that shortfall will have grown larger.

18. Nevertheless, Mr Green, for the appellants made some telling criticisms of the methodology of the TAA. Three in particular have a bearing on the numbers produced. Firstly the TAA identified 50 families living in bricks and mortar (b&m). As Mr Green pointed out identifying how many gypsy families are living in b&m is notoriously difficult and the TAA itself states that the majority of gypsies live in b&m. Therefore to find 50 in one Borough is commendable on the part of the survey team, but also a significant underestimate of the actual likely number. The census figures suggest 75% of all gypsies live in b&m, which would lead to a figure of 390 in Runnymede. By assuming that the 50 identified represents the entire number has the effect of significantly underestimating the concealed need, that is those living in b&m but who wish to return to a gypsy way of life in a caravan.

19. Secondly, the TAA underestimates the amount of doubling-up and concealment amongst those already on pitches because it relied solely on people expressing a wish to move to a separate pitch in the questionnaire returns. Mr Green argued that either a person met the definition of being doubled-up or concealed and so should be included or they didn’t. To mix statistics and personal preferences in this way was not a valid way of identifying actual figures as it confuses need with desire.

20. Thirdly, the TAA reduces demand by including outward migration in the figure for turn-over but no figure for inward migration. The Council argued that either in-migration was covered by the growth rate figure or that there was no inward migration. They had contacted other authorities and no-one knew of any gypsy families expressing a wish to move to Runnymede. I prefer Mr Green’s analysis that firstly growth rate figures do not include migration, but are a simple statistical increase of the base population and that secondly migration is impossible to analyse as there are simply no figures to base it on. I find it hard to accept as reliable the view that there is likely to be no inward migration to the Borough in the next 15 years, while there is regular outward migration. Unless the birth rate exceeded outflow this would suggest there would eventually be no gypsies in Runnymede at all. The assumptions made in the TAA have a dramatic effect on the growth rate figure, which if migration out and in were removed would rise from 1.7% to 2.75-3%. Hence the large
discrepancy between the TAA figure for the later 10 years and that provided by Mr Green.

21. There are also arguments about what multiplier should be used for family formation and for calculating doubling-up as well as uncertainty over the base-date of the survey.

22. It is not the place in this decision to make a finding on the quality of the TAA, but it does seem to me that the criticisms levelled by Mr Green are cogent and persuasive. On the basis of the evidence I heard, the TAA is likely to underestimate the need for pitches. The situation is likely therefore to be even worse than the already serious problem the Council are prepared to admit to facing.

23. Taking all this together, the current situation seems to me to be that the Council’s adopted local plan is considerably out of date. Their attempt to draw up a new plan has already been found wanting, and the timetable for a revised version is at best very optimistic. In the meantime they have consistently refused nearly all gypsy site planning applications and there is now, on their own figures, a serious backlog of sites required and those figures are likely to be a considerable underestimate. This amounts to a clear failure of policy to which I shall give significant weight.

**Greenacres Stable Yard, Bittams Lane**

24. The site is contained within a small triangle of land bounded to the east by the M25 and the west by Bittams Lane. Green Lane crosses the M25 to the north of the site and to the south is further open paddock land between the M25 and Bittams Lane. There is a housing estate to the west of Bittams Lane, but the eastern side of that lane is well treed with the site beyond. The land already contains a lawful stable block and hardstanding. During the course of the lengthy appeal process the appellant moved onto the site and has a mobile home situated between the stable block and the M25 embankment (on land which is outside the appeal site) and has created a grassed sitting out area beside and to the north of the entrance track. The appeal site however is proposed to be between the stable block and Bittams Lane to the south of the entrance track. The mobile home would be moved to an area of hardstanding, an amenity block would be constructed and a touring caravan stored on the hardstanding too. Any vehicles the appellant owned would, presumably, also be stored on this site. The existing garden area would be landscaped to screen the site from views from Green Lane.

25. The quantum of additional development is thus modest, but, looking at the footprints of houses to the west for example, it would be roughly equivalent to two small bungalows with their gardens laid to hardstanding. In terms of openness I agree with the appellant the impact of this proposal is no different from any other single gypsy pitch with the same quantum of development, and is, as I described it above, modest.

26. However, the whole would be surrounded on three sides by 2m close boarded acoustic fencing to protect the occupiers from motorway noise and the side facing Bittams Lane would remain thickly bounded by trees and bushes. The fencing could be erected using permitted development rights, but there would be no need to separate off a random part of a paddock with close-boarded
fencing unless it was to be occupied, so I consider the fence forms a part of the overall impact of the proposal.

27. One of the purposes of the Green Belt is to safeguard the countryside from encroachment. In my view this part of the countryside of the Green Belt is particularly sensitive to encroachment as here it is narrow and fragmented by numerous areas of development and the M25. In particular the site occupies a small triangle between housing and the motorway which is vulnerable to development which would seem to close this small gap, snuffing out the Green Belt altogether.

28. The appellants argue that because the quantum of development is modest any impact on encroachment must also be modest, but I do not agree. Some parts of the Green Belt are clearly more vulnerable to encroachment than others and this is one of them. Paragraph 88 of the NPPF says that “substantial weight is given to any harm to the Green Belt” (my italics) and this is the approach I shall adopt in this appeal. The proposed site establishes a line of development across the field, cutting it in half. In my view this is a significant encroachment into the countryside and should be given substantial weight in addition to the weight by way of inappropriateness.

29. In addition to the Green Belt harm the site also has an impact on the visual amenity of the area. Currently the land appears to be what it is, a paddock with a stables and hardstanding. The addition of a residential use, whether gypsy or not would change the nature and appearance of the land considerably, extending the residential development that is currently contained by Bittams Lane across the lane into the narrow strip of countryside by the M25. This harm is reduced by the natural screening of the existing vegetation. There are only very limited views through the hedgerow on Bittams Lane but clearer views from the bridge over the motorway. Such a view is obviously dominated by the M25, but that makes the visual relief afforded by the strip of paddock land to be even more important. The fenced-off residential compound would stand out as intrusive and harmful. Allowing development here would be contrary to NE10.

30. The Council are also concerned about the noise from the motorway. It is agreed that this can be satisfactorily ameliorated by the proposed close-boarded fence. The Council’s opposition is to the visual impact of the fence. If this were omitted because of the harm it causes then there would be no protection against noise. I do not consider the fence on its own is harmful, and so I think the noise issue is capable of being resolved. However, I do think the fence in association with the residential compound causes harm as described above, but that is a visual rather than a noise issue.

31. The site also lies in the Thames Basin Heaths Special Protection Area, and it was agreed there would be a small but identifiable impact on the SPA. I was given a s106 unilateral undertaking which satisfied the Council’s requirement to provide for a suitable alternative open space.

**Personal circumstances**

32. The appellant for this site, David Chaulk, is now living on the land with his wife and five children, his oldest son is 19 and youngest daughter is a baby. Before the baby arrived, the family were living in a mobile home at the rear of Mr Chaulk’s mother-in-law’s house in the nearby Spelthorne District Council area.
After 2 years there, the Council made them give up the mobile home and they moved into a touring caravan in the garden of the same house. They were there for 6 years until Christmas 2014 when the mother-in-law split from her husband and moved back to a gypsy site in Ireland and rented out the house. They were forced onto the road for a short while then decided to move onto the land.

33. It is clear to me, contrary to the Council’s view, that moving back to the mother-in-law’s house is not an option, not least because it has been rented out to other people and even if it wasn’t living in a touring caravan with five children on somebody else’s lawn does not amount to an available, affordable, acceptable or suitable site as set out in the Angela Smith case. This is something to which I shall afford significant weight.

34. Two of the children are still at school and the baby will have specific needs for post-natal care and within the next four or five years will also have educational needs. Mr Chaulk’s wife suffers from depression which has been exacerbated by the uncertainty over their place of residence. A settled base is clearly most beneficial for access to the educational and health resources the family need. This is another matter of significant weight.

**Beachcroft Stables, Stroude Road**

35. The site lies within an existing stablyard. The stables are accessed from Stroude Road down a lane that provides access to various other dwellings. A number of loose-boxes and stable buildings along with tall fences and gates create a private enclave surrounded by trees and paddocks. It is intended to convert one of the existing buildings to form an amenity block and station the mobile home and store the touring caravan on the existing hardstanding.

36. While the proposal is inappropriate development the site fulfils no functions of the Green Belt as it is already effectively developed. The only impact on openness is the addition of the mobile home. I am discounting the touring caravan and any vehicles as the latter would attend the site and be parked there from time to time in any event, and the former, while strictly speaking additional could easily be parked at the stables and used for ancillary purposes, something that is not unusual in my experience of stables. The actual quantum of development is therefore very small and the impact on the openness of the Green Belt correspondingly low.

**Personal Circumstances**

37. The appellant for this site, Joanna Taylor, is currently living in a touring caravan in the garden of a house she owns with her husband, along with her two boys, aged 21 and 17. The appellant’s personal history is somewhat complex because of the fraught relationship with her husband, who is an alcoholic. They purchased the bungalow in 2010/11 but she has always lived, at least partly, in the caravan in the garden. This has been her permanent home more recently as she is now trying to get a divorce. Originally she lived with her parents in a mobile home on the stable site, but was forced off by the Council into a council house, where her parents still live. For 19 years before 2010/11 she lived in a bungalow at Bantre Nook with her husband, but always

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2 Angela Smith v Doncaster MBC [2007] EWHC 1034 (Admin)
had a caravan in the garden which she lived in from time to time, particularly due to problems with her husband.

38. The current situation is that Mrs Taylor is living in the tourer in her front garden because she has nowhere else to go. She cannot stay in the house because of the failed relationship with her husband and in any event has an aversion to b&m. Her two sons live with her, the eldest suffers from depression and a stable home life away from his father would be beneficial. She makes her living from the stables and so living on-site would have the positive side-effect of increasing security and safety of the horses there.

39. I agree with the appellant that her current living arrangements are not suitable in ‘Angela Smith’ terms. Had she not been a gypsy, no doubt the Council would have found her and the boys alternative accommodation, but they cannot do so a there are no alternative gypsy pitches. The lack of alternative accommodation is a matter I shall attach substantial weight to. While I am sympathetic to the eldest boy’s problems, it is not clear that living at the stables would be a particular solution beyond the general sense of stability it would bring and the younger boy is not at school, therefore their needs attract only moderate weight.

Wickham Piggery, Wickham Lane

40. Wickham Lane is a dead-end, cut off by the M25. In the wider landscape the area is bounded to the north by New Wickham Lane which crosses the M25 with a few fields beyond and then the built up area of Egham; to the west it is bounded by Stroude Road and countryside beyond; to the south by countryside; and to the east by the M25 with urban development beyond that. Within the areas of countryside are pockets of development. The immediate environment of Wickham Lane however is more developed. Opposite the site is a bungalow, Hay Day, which stands in a large open site where there are currently works going on which appear to be to construct a timber building of an indeterminate use. Next to that is a high-walled, travelling showpersons site opposite which is land owned by the appellant’s father which has a lawful use as a nursery, but seemed to be filled with parked vehicles. All these uses had tall timber fences around them several of which appeared to be brand new. Whether they were lawful or not I do not know, but they have the effect of compartmentalising the area, or to use the Council’s phrase, fragmenting it.

41. There is a lawful stable block with a hardstanding to the rear of the site, and a 2m close boarded fence runs alongside the access track and provides noise attenuation from the M25. The new mobile home and amenity block would stand in front of the stables with the tourer in a new compound separated from the wider paddock by landscaping and a post and rail fence. As in the Bittams Lane appeal, there is clearly harm to openness, but the quantum of development is moderate. This also seems to be a landscape that is vulnerable to development, as is shown by the recent changes caused by the erection of the fences. The aerial photographs and even the appellant’s plans show a more rural and open aspect. As in Bittams Lane the proposal represents encroachment into the countryside which is rapidly shrinking and this harms one of the purposes of including land in the Green Belt.

42. The Council also raise a landscape issue. I agree with the appellant that even if I were to ignore the new fences the Council’s description of the site has rather downplayed the other development in the area, particularly the large
travelling showpersons site. Nevertheless, this is one of the few areas of open
to the expense of the

43. The appellant argues that the existing lawful uses define the character of the
and so the proposed use, which is after all a typical rural use, would fit in
well. I disagree. Whilst the countryside is not particularly striking, the open
paddocks are attractive and are diminishing as the existing built development,
which is at best of indifferent quality, encroaches onto them. The fact that
mobile homes are often found in rural areas does not make them automatically
an acceptable part of any landscape. In this case it cannot be argued that
adding a residential compound with hardstanding and associated residential
paraphernalia and parking of vehicles would enhance the site, and I consider
the loss of the paddock to a residential use would be harmful to the visual
amenity of the area and would further fragment the site contrary to policy
NE10.

44. Views into the site from New Wickham Lane and from the bridge over the M25
are very limited because of the thick tree screen. In the winter it would be
easier to see through the branches, but from the nearest viewpoints the stable
block would provide additional screening. The main view is from Wickham
Lane itself. This is a dead-end, finishing against the M25 embankment only
yards from the site. There is a zig-zag path running through the trees onto
New Wickham Lane from the dead-end but this doesn’t seem to be a place that
would be well frequented by walkers and there is no evidence that it is.
Therefore the harm I have identified is reduced as the site is not readily visible
from public viewpoints that are likely to be used.

Personal circumstances

45. The appellant at this site, Leigh Beech, currently lives in a touring caravan at
Hurst Lodge about a mile away. He has four children aged from 7-14, but is
separated form his wife and children. Mr Beech’s witness statement said that
he had always lived on the roadside or doubled up on family or friends’ pitches,
and the stress of this contributed to the family break-up. However, when he
gave evidence he said that his family did all live together in a mobile home at
Hurst Lodge, but there was a serious falling out between his wife and his
mother and so his father told his wife that she had to leave. Since then his
wife and children have for the past three years lived firstly in a flat and then in
a house. His children visit and stay over regularly but the tourer is not a safe
place for them to stay, with no inside washing or toilet facilities, and it is on the
side of a larger yard regularly used by lorries and commercial vehicles.

46. I visited Hurst Lodge as part of the site visit. At the time of my visit it was
very quiet. The site is shaped like a lower case ‘h’, with the two legs forming
separate road frontages. At the front of the main leg of the ‘h’ is a dwelling
occupied by the appellant’s father, with a large back garden. Behind that is a
row of sheds or chalets, most of which are rented out for residential purposes.
These extend up the main leg of the ‘h’ to the mobile home at the top. Coming
down the shorter leg is a large commercial unit rented out to various
companies, the main one of which seemed to be a fork-lift truck hire, and a
number of fork-lifts were parked in a row down the shorter leg. Behind them
was the appellant’s touring caravan with a small sitting out area in front of it,
then a large shed which contained a blacksmith’s forge and a small stable and then a narrow paddock which led down to the road frontage with the access drive next to it. Excluding the appellant’s touring caravan about two thirds of the site is either residential or paddock.

47. The appellant’s caravan seems to be in about the worst possible place on the whole site in terms of living. It seems because of the falling-out this is the best his father is prepared to offer, and even if the appellant did rent one of the chalets or the mobile home his wife would not be welcome back on the site. Therefore, despite the fact there is acceptable and lawful accommodation at Hurst Lodge this is not available because of a family squabble. It could be argued that Mr Beech and his family have, to an extent, brought this problem on themselves, but it remains true that in terms of ‘Angela Smith’ there is no suitable accommodation for him or his family. However, the family do not live with Mr Beech and I had no evidence that the children were not settled with their mother in the council house they were occupying. It would easier for Mr Beech to see his children if he had a different permanent base, but there is no guarantee the family would get back together. No evidence was provided by his estranged wife and it is only his hope that better accommodation would lead to a reconciliation.

48. The appellant quoted from the Supreme Court judgement in ZH(Tanzania)³ “where the best interests of the child clearly favour a certain course, that course should be followed unless countervailing reasons of considerable force displace them”. In this case the best interests of the children are probably served by providing their father with a stable home so that the family can get together, but to give that any great weight would involve me in making a series of assumptions about the future prospects for the appellant and his family that I simply do not the evidence to support so I cannot say that the best interests of the children do “clearly favour a certain course”.

Conclusions

Appeal A – Bittams Lane

49. For Bittams Lane I consider the development is inappropriate in the Green Belt and causes harm to the Green Belt by way of encroachment and both harms are substantial. There is also modest harm to the openness of the Green Belt. There is moderate harm to the character of the countryside and so the proposal is contrary to policy NE10. Material considerations that weigh in favour of the appeal are the failure by the Council to plan for a 5 year supply of gypsy sites. Its own TAA shows they have a significant backlog of sites and I consider this is likely to be an underestimate while the local plan that is in preparation to deal with the backlog is still at least 2 years from adoption, which I consider to be considerably optimistic. This all adds up to a serious failure of policy on the part of the Council. In addition because of the preponderance of Green Belt land in the Borough the majority of future gypsy sites are likely to be in the Green Belt.

50. The government has made clear that it supports the integrity of the Green Belt and that any changes that are made to the Green Belt should be through the local plan process and not through ad hoc planning applications or appeals. Although the material considerations in favour of the appeal attract significant

³ ZH(Tanzania) v SSHD [2011] UKSC 4
weight they do not, in my view outweigh the very serious harm to the Green Belt that I have identified and the less serious harm to the character of the countryside. In the event that I reached this conclusion I was urged to take into account the appellant’s personal circumstances. In this case the educational needs of the children are important considerations and I am aware that the needs of the children are a primary consideration. The appellant has nowhere else to go and it is likely he and his family would be forced to some other unsuitable site such as a front garden or to live on the road. These are matters of significant weight that leave the case finely balanced.

51. Consequently, I consider that a temporary planning permission is the way forward. In such a case the substantial weight attached to the harm to the Green Belt is reduced such that it is clearly outweighed by the material considerations in favour of the appeal. This will allow time for the Council to adopt its local plan and set out how it intends to deal with the backlog. As part of that process it is possible the site might well be removed from the Green Belt which would then considerably change the planning balance for a permanent permission. All of this amounts to the very special circumstances required by the NPPF to enable inappropriate development in the Green Belt.

52. In the event of a temporary planning permission being considered the Council suggested 3 years was a reasonable length of time, but I prefer the appellant’s suggestion that if alternative sites are to be found through the plan process it is going to take some time after the adoption of the plan to do so, and that adoption by the winter of 2017 is itself optimistic and so 5 years is preferable.

Appeal B – Stroude Road

53. For Beechcroft Stables I consider the development is inappropriate development in the Green Belt to which I attach substantial weight and there is a small reduction in openness which carries a little weight. Material considerations that weigh in favour of the appeal are the failure by the Council to plan for a 5 year supply of gypsy sites. Its own TAA shows they have a significant backlog of sites and I consider this is likely to be an underestimate while the local plan that is in preparation to deal with the backlog is still at least 2 years from adoption, which I consider to be considerably optimistic. This all adds up to a serious failure of policy on the part of the Council. In addition because of the preponderance of Green Belt land in the Borough the majority of future gypsy sites are likely to be in the Green Belt.

54. The government has made clear that it supports the integrity of the Green Belt and that any changes that are made to the Green Belt should be through the local plan process and not through ad hoc planning applications or appeals. Although the material considerations in favour of the appeal attract significant weight I consider that they leave the appeal finely balanced. However the appellant’s personal circumstances are also an important consideration. I do not consider she can stay living at her current address and she has nowhere else to go a matter to which I attach substantial weight. There also is the moderate weight I attached to the needs of her sons as well. As her means of livelihood revolves around the stables she has a functional link to the site. If this were to be made an unrestricted gypsy site there is no guarantee that any future occupiers would need such large stable facilities which may be left to fall into disrepair or pressure could be put on the Council to allow alternative uses that would be less acceptable in the Green Belt. Consequently I consider a
personal condition to be appropriate, to restrict occupation to Mrs Joanna Taylor and her two sons. Taking all this together I consider that with a personal consent the material considerations outweigh the Green Belt harm I have identified and amount to the very special circumstances required by the NPPF to enable inappropriate development in the Green Belt.

**Appeal C – Wickham Lane**

55. For the Wickham Piggery site I consider the development is inappropriate in the Green Belt and causes harm to the Green Belt by way of encroachment and both harms are substantial. There is also modest harm to the openness of the Green Belt. There is moderate harm to the character of the countryside and so the proposal is contrary to policy NE10. Material considerations that weigh in favour of the appeal are the failure by the Council to plan for a 5 year supply of gypsy sites. Its own TAA shows they have a significant backlog of sites and I consider this is likely to be an underestimate while the local plan that is in preparation to deal with the backlog is still at least 2 years from adoption, which I consider to be considerably optimistic. This all adds up to a serious failure of policy on the part of the Council. In addition because of the preponderance of Green Belt land in the Borough the majority of future gypsy sites are likely to be in the Green Belt.

56. The government has made clear that it supports the integrity of the Green Belt and that any changes that are made to the Green Belt should be through the local plan process and not through ad hoc planning applications or appeals. Although the material considerations in favour of the appeal attract significant weight they do not, in my view outweigh the very serious harm to the Green Belt that I have identified and the less serious harm to the character of the countryside. In the event that I reached this conclusion I was urged to take into account the appellant’s personal circumstances. In this case I have accepted the appellant’s current living arrangements do not amount to suitable accommodation and there is also the issue of the needs of his children and estranged wife, but I have found they are not clear cut and this reduces the weight to be given to them. Consequently, I do not consider that taken altogether the material considerations in favour of the appeal outweigh the harm I have identified. Nor do I consider that allowing the appeal for a temporary period would overcome that harm, even reduced somewhat because of the temporary nature of the outcome. This is not one of the areas that might be considered to be removed from the Green Belt and allowing the development, even for a period of only 5 years would still undermine this part of the Green Belt which I have identified as being at risk from fragmentation. Consequently, the very special circumstances required by the NPPF to enable inappropriate development in the Green Belt to be allowed do not exist and the appeal will be dismissed.

**Human Rights**

57. I consider the human rights of the appellants in neither Appeal A nor Appeal B have been infringed as both can live at the appeal sites with their families. Although Mr Chaulk’s permission is only temporary, that is a proportional response to the Green Belt harm that I have identified. In Appeal C I consider the harm to the Green Belt is such that despite the significant factors weighing in favour of the appeal they do not outweigh the harm identified. While this is
a clear breach of the appellant’s article 8 human rights it is proportionate because the appellant’s wife and children are already accommodated elsewhere and because of the need to retain the integrity of the Green Belt at this location.

**Conditions**

58. I shall attach personal conditions to both Appeals A and B, as well as a 5 year temporary condition to Appeal A. I shall attach conditions to both appeals to ensure they are implemented in accordance with the plans submitted; to restrict the site to one pitch and two caravans of which only one would be mobile home; to restrict the weight of any vehicles to 3.5 tonnes other than in the case of Appeal B where a larger horse lorry will be allowed and to prevent commercial activities taking place on the site, except in the case of Appeal B where horse related activities are acceptable.

59. Although appeal A is for a temporary period, the appellant may still wish to construct a dayroom in which case the materials used will need to be agreed with the Council first. The proposed day rooms shall be restricted to ancillary use only to make it easier to prevent any primary residential use being begun. Conditions are also required to control external lighting and surface water drainage, though not in the same detail as suggested by the Council.

60. In Appeal A, because of the noise issue, a condition is needed to ensure the mobile home is not moved from its site and that acoustic fencing is erected. Although it is temporary, a landscaping scheme needs to be agreed and implemented, especially as part of the site earmarked for planting has already been turned into a lawned area. All these conditions are to ensure the gypsy sites are developed and operated sensitively given their Green Belt location.

61. I do not think a commencement condition for Appeal A is required as the permission is for a temporary period. Neither appeal requires a condition preventing extensions or porches or other buildings. Mobile homes do not have permitted development rights and anything other than a de-minimis change would require planning permission. Nor is a condition preventing commercial vehicles from being on site acceptable because of the difficulty in identifying a commercial vehicle, the weight limit should suffice. As both permissions are personal and therefore temporary I do not think a condition limiting occupation of the sites to gypsies is required. That would only be appropriate if the Council were to make either pitch permanent.

62. For appeal A, a signed and dated s106 unilateral undertaking was provided by the appellant which, along with a SANGS condition satisfied the Council’s desire to protect the TBHSPA and is in accord with CIL regulation 123.

*Simon Hand*

Inspector
APEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robin Green
He called
Richard Ford BA(Hons) Runnymede BC (policy & need)
MRTPi
Justin Williams Runnymede BC (Bittams Lane & Stroude Road)
BSc(Hons) MSc, MRTPi
Louise Waters BA(Hons) Runnymede BC (Wickham Lane)
MA, MRTPi

FOR THE APPELLANT:

Michael Rudd
He called
David Chaulk Appellant – Bittams Lane
Joanna Taylor Appellant – Stroude Road
Leigh Beech Appellant – Wickham Lane
Matthew Green Director Green Planning Studio Ltd
Ruth Reed Director Green Planning Studio Ltd

INTERESTED PERSONS:

Mr Roberto Aliperti Local Resident (Bittams Lane Appeal)

Documents

1. Letters of notification for all three appeals and explanation from the Council why no enforcement action had been taken in the case of Bittams Lane.
2. Revised witness statements for all three appellants.
3. Statements of common ground for all three appeals.
4. Mr Beech’s TAA questionnaire response.
5. Suggested conditions for all three appeals.
6. Sugested SANGS condition for Bittams Lane.
7. Biographies of Mathew Green and Ruth Reed.
8. Unilateral Undertaking for Bittams Lane appeal.
9. Council’s closings and copy of transcript of Redhill Aerodrome court case
10. Appellant’s closings
Annex A – Conditions for Appeal A APP/Q3630/A/14/2217053

Greenacres Stableyard, Bittams Lane – 15 Conditions

1) This decision relates expressly to drawings 12-515-003A, 12-515-004, 12-515-011, and the caravans and utility/dayroom shall be located as shown thereon.

2) The use hereby permitted shall be for a limited period, being the period of five years from the date of this decision and shall be carried on only by David Chaulk Senior, Margaret Chaulk and any resident dependants and by David Chaulk Junior and by no other persons.

3) When the premises cease to be occupied by David Chaulk Senior, Margaret Chaulk and any resident dependants and David Chaulk Junior, or at the end of 5 years whichever is the sooner, the use hereby permitted shall cease, the residential mobile home, touring caravan, acoustic fencing, amenity block and all other materials and equipment brought onto the site in connection with the use shall be removed and the land restored to its condition before the development.

4) There shall be no more than 1 pitch on the site and on that pitch no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968, or any act which amends or replaces this act with or without modification, shall be stationed at any time, of which only one caravan shall be a residential mobile home.

5) No external lighting shall be installed without the prior written approval of the local planning authority.

6) Prior to the occupation of the site details of surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority and the development shall subsequently be carried out on accordance with the approved details.

7) The proposed mobile home shall only be positioned in the location as detailed in the submitted plan drawing No. 12_515_003 Rev A. There shall be no material change to the position of the mobile home or its replacement with another mobile home in a different location.

8) Prior to the occupation of the mobile home on its approved site the proposed acoustic fencing detailed in the Environmental Noise Survey and as annotated on drawing No 12_515_003 rev A shall be erected and thereafter retained.

9) No dayroom shall be erected until details of the materials to be used have been first agreed in writing by the LPA. The development shall be carried out in accordance with the approved details.

10) The proposed utility day room, if erected, shall be used solely in connection with the residential use of the site and for no other purpose.

11) The site shall not be occupied until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and
hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development

12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the site; and any trees or plants which within a period of 5 years from the date of this decision die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

13) The site shall not be occupied until a scheme for the mitigation of the effects of the development on the Thames Basin Heaths Special Protection Area has been submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for the delivery of Suitable Alternative Natural Greenspace (SANG). In the event that the proposal is for the physical provision of SANG, the SANG shall be provided in accordance with the approved scheme before the mobile home is occupied.

14) No vehicle in excess of 3.5 tonnes in weight shall be stationed, parked or stored on the site.

15) No commercial activities shall take place on the land, including the storage of materials.
Annex B – Conditions for Appeal B - APP/Q3630/A/14/2224303

Beechcroft Stables, Stroude Lane – 10 Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans: 13_561_001A (Site Location Plan), 13_561_004 (Indicative Dayroom Layout), 13_561_003 (Proposed Site Plan).

3. The use hereby permitted shall be carried on only by Joanna Taylor, Albert Taylor and any resident dependants and by no other persons.

4. When the premises cease to be occupied by Joanna Taylor, Albert Taylor and any resident dependants, the residential mobile home, touring caravan and all other materials and equipment brought onto the site in connection with the use shall be removed and the land and the utility room restored to its condition before the development.

5. There shall be no more than 1 pitch on the site and on that pitch no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968, or any act which amends or replaces this act with or without modification, shall be stationed at any time, of which only one caravan shall be a residential mobile home.

6. No vehicle in excess of 3.5 tonnes in weight shall be stationed, parked or stored on the site unless being used for the transportation of horses.

7. No commercial activities save for those associated with the keeping and breeding of horses shall take place on the site, including the storage of materials.

8. The proposed utility day room shall be used solely in connection with the residential use of the site and for no other purpose.

9. No external lighting other than that already on site shall be installed without the prior written approval of the local planning authority.

10. Prior to the occupation of the site, details of the surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority and the development shall subsequently be carried out on accordance with the approved details.