



Appeal Decisions

Inquiry held on 7 August 2007
Site visit made on 7 August 2007

by **David Baldock** MA DipTP DMS MRTPI

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

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Decision date:
16th August 2007

Appeal Ref: APP/P0119/C/07/2037529

Land at Shortwood Road, Pucklechurch

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Yvette Jones against an enforcement notice issued by South Gloucestershire Council.
- The Council's reference is CAE/06/0572.
- The notice was issued on 15th January 2007.
- The breach of planning control as alleged in the notice is the unauthorised change of use of the land from use for agriculture to use for the stationing of caravans and a log cabin with associated facilities in connection with a residential use.
- The requirements of the notice are to:
 1. Cease the use of the land for residential purposes.
 2. Cease the use of the land for the stationing of caravans and log cabin.
 3. Remove from the land the caravans and associated facilities and the log cabin.
 4. Restore the land to grassland.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Appeal Ref: APP/P0119/A/07/2036122

Land at Shortwood Road, Pucklechurch

- 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 Mrs Yvette Jones against the decision of South Gloucestershire Council.
- The application Ref PK05/1054/F, dated 15th February 2005, was refused by notice dated 14th December 2006.
- The development proposed is a change of use of grazing land for the stationing of 3 residential gypsy caravans.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out below in the Formal Decision.

Site and surroundings

1. The appeal site adjoins Shortwood Road (B4465) a short distance to the west of Pucklechurch. The surroundings are predominantly open land although there is a scatter of dwellings nearby. A central access divides the site into two halves, which form two plots. The eastern plot is occupied by the appellant and her husband. There are two touring caravans on this plot, one used

permanently and the other available for travelling. There is a log cabin providing kitchen and sitting facilities and a blockwork washroom. A green lorry body in the south-east corner is used for the storage of tools and equipment. A good part of the plot is stoned.

2. The western plot is occupied by the appellant's son and family. This is stone surfaced and there is a single unit static caravan together with a smaller timber day room.
3. There is substantial screening around most of the four sides of the land and also on each side of the access track. On some boundaries fences have been erected inside the boundary hedge. Most of the boundary screening is deciduous hedgerow trees which have been allowed to grow to a tall height. Along the front boundary the height is some 3.5-4 m. Along the east boundary the height exceeds 2 m. The result is that there is little sight of the items on the land from outside the site although there might be slightly greater visibility when leaves have fallen.
4. There is an area of grass in the north-east corner of the appellant's plot and this extends on to a moderate-sized area which is outside the area subject to the appeals although in the same ownership.

The development

5. The Council's planning decision describes the development as a change of use of grazing land for the stationing of 3 residential gypsy caravans and this is the basis on which the s78 appeal is pursued. The enforcement notice treats the log cabin, presumably the larger one on the appellant's plot, as part of the material change of use. Whereas caravans are mobile and generally a use of land, the log cabin is fixed and with its associated services would be likely to remain in the same position. In my view this is operational development and the allegation should be corrected accordingly. This has no effect on the principles at issue in the appeal, that is the suitability of the land as a caravan site for three caravans, occupied by gypsies as defined in planning policy. It is not unusual for some complementary facilities to be in buildings, as is the case on both plots here.
6. The Council accepts that the occupiers are gypsies for the purposes of planning policy. The evidence of Mrs Jones is that her husband and son travel in connection with landscape gardening for most of the year. I have no reason to dispute this.

Ground (a), the deemed application and the s78 appeal

7. The appeal site is in the Green Belt and it is accepted that the use is inappropriate in policy terms. The issue in the appeal is therefore whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, thereby constituting very special circumstances. I begin by assessing harm and then look at the main arguments of the appellant said to contribute to the existence of very special circumstances.

Harm from the development

8. In addition to the "policy" harm, there would be harm from the loss of the openness which is the most important attribute of the Green Belt. That is the typical effect from a development of this size. The Council did not argue that there is any particular significance arising from the location of the site but the Parish Council is concerned at the pressures arising here because of the proximity of the eastern edge of the Bristol urban area. I agree that has some significance, although limited in this case by the small size of the site and lack of external impact. The Council does not argue that there is an adverse visual impact arising from views of the development and I have no reason to disagree with that assessment.
9. It is relevant to note that the Council agrees that there is no other objection to the development. This includes accepting that the environmental and locational tests in policy H12, which is the Local Plan policy dealing with sites for gypsies, are met. The policy does however oppose such sites both in the Green Belt and in the Cotswolds Area of Outstanding Natural Beauty (AONB).

Need and alternative sites

10. There is a recognised national under-provision of sites for gypsies, which is a primary reason for the advice in Circular 1/2006.
11. The Statement of Common Ground (SCG) summarises the local need, which is said to be "substantial" in the District. An assessment in 2004 proposed a need for 167 caravans/pitches in the period to 2011. An emerging 2007 assessment is for some 75 pitches between 2006 and 2011¹, although this is a provisional figure at present. The scale of need also led the Secretary of State to issue a direction in 2006 requiring the preparation of a Development Plan Document (DPD) making site allocations.
12. To put these figures in perspective, in January 2007 there were 213 caravans on 29 authorised sites in the District. It is probable that the increase required substantially exceeds 50% of current provision.
13. A number of considerations highlight the scale of this task. The Local Plan adopted in 2006 acknowledged the existence of need but noted that despite extensive searching no suitable site had been identified. The Parish Council argued that the Council would only have been searching for larger sites and that a smaller site would be easier to identify but there is no grounds for such a distinction, either in Circular 1/2006 or in the preceding guidance in Circular 1/94. Secondly, the Council has provided details of the outcome of applications for such development since 2002. These show that the rate of new provision averages less than two pitches a year, mainly from successful appeals, and some of these may only be temporary, in which case the outstanding need is unaffected. Finally, preparation of the relevant DPD is expected to take more than three years and is not programmed for adoption until December 2010. In the SCG a further period of 12-18 months is said to be necessary for sites to become available.

¹ Documents 9 and 11

14. Turning to personal need, the occupiers previously lived on the Council's site at Highwood Park, Patchway. The appellant's evidence is that there were problems of abuse, assault and vandalism on that site, so that continued residence there became impractical. The Council has not contested this and, with its responsibilities for the management of the site, would have been in a position to do so had the evidence been inaccurate. There is no evidence that any alternative site is available to the occupiers so that if forced to move it is likely they would have to resort to roadside camping. Although the possibility of applying for a pitch at the Council's other site, at Winterbourne, was referred to, this is said to be mainly used by Irish travellers. There are not current vacancies and bearing in mind also the overall shortage locally I attach little weight to this possibility.
15. The principal factor militating against this compelling case of need arises from the special protection afforded to the Green Belt. This is reflected in the advice in paragraph 49 of Circular 1/2006 that alternatives should be explored before Green Belt locations are considered. The appellant described a search for sites by her husband over a period of 1-2 years but this was not aided by any advice and seems to have relied on word of mouth. It was said to have been directed to the local area, for personal reasons, and as such it is unlikely to have extended beyond the Green Belt. The Council's evidence referred to the nearest land outside the Green Belt at Yate. A site in that vicinity would not be impractical, having regard to the support network available to the appellant, although it would be less convenient than the appeal site. Limited reliance can be placed on this, since there is no site available and the outcome of the DPD will not be forthcoming for several years. More generally the appellant argued that the scale of need will inevitably require some sites to be made available in the Green Belt. Although the Council claimed that land in the AONB would receive a lower level of protection, thereby increasing the area of search, I regard this as a significant constraint, bearing in mind also the other criteria which will need to be met if a site is to be regarded as suitable. Although land in built-up areas is acceptable under policy, the probability that sites will be feasible in such locations is very low. In broad terms about 25% of the District is neither built-up nor within the AONB and Green Belt and in that sense unconstrained. Experience shows that finding sites will be very difficult and in the unconstrained area it may be more difficult to achieve reasonable access to services. Thus although this is where most of the outstanding need might be met, in appropriate circumstances smaller scale provision might be necessary within the Green Belt.

Failure of policy

16. The appellant's argument in this respect is, in summary, that the development plan fails to provide a basis for meeting what is a substantial need and that this failure, which has followed from a failure to implement national policy over a protracted period, adds weight to the case. An appeal decision is quoted in support. Although I have no criticism of this as a historical account, I do not accept that it adds weight to a case of very special circumstances. Of course if the development plan did provide clear guidance on how need could be met, the appellant's case would be weakened. But I have accepted that the outstanding need and the time period within which it is likely to be met is a very important consideration. In the circumstances of this appeal, to give

weight to the failure of policy would introduce a form of double-counting in which cause and effect are added together.

Health

17. Evidence has been provided concerning the appellant's health and her need for daily living assistance. This included a proposed care plan prepared by the Council's Community Care Department. The principal relevance of this is not in relation to access to medical services but the support network which enables her to avoid reliance on state help. She also suffers from depression and this is likely to be affected by matters connected with the appeal and by its outcome. The primary source of assistance is her daughter-in-law, who lives on the site, but her parents and friends are also nearby. The absence of a settled base would be likely to result in particular hardship and would be highly undesirable. Relocation to a site outside the Green Belt would weaken the support she currently receives but would be an acceptable outcome, if it were achievable. However limited weight can be given to the prospect of this in the light of local circumstances.

Education

18. The appellant's son and daughter-in-law have four children aged between seven months and five years. The intention is that they should attend school and the elder children are doing so now. This would be more difficult without a settled base and this is a benefit given weight in national policy. It was pointed out that the school attended is not the closest to the site. An alternative settled site would be equally suitable in this respect but in the absence of one it must weigh in favour of the appeal that allowing this would support the education of the children living on the site.

Sustainability

19. Circular 1/2006 lists a series of relevant considerations in paragraph 64: the promotion of peaceful and integrated co-existence; the wider benefits of easier access to GP and other health services; regular school attendance; and avoiding the possible environmental damage of authorised encampment. The last-mentioned is the most relevant factor not mentioned previously. The others have been referred to in the context of the personal circumstances of the current occupiers. The availability of the appeal site for lawful occupation as a settled base would be likely to contribute in relation to each of these considerations based on the general needs and characteristics of gypsy families. Thus for example many, perhaps most, adult occupiers would have children attending school at some stage in their occupation. Thus these benefits weigh in favour of the scheme without reliance on the presence of the current occupiers and restriction by a personal condition.

Overall conclusions

20. This is inappropriate development in the Green Belt and this policy breach together with the loss of openness contribute substantial weight against the development. Nevertheless the small size of the site, existing screening, and low impact from just three caravans, limit the harm caused. The overall case of need, including the absence of any identifiable alternative, is very strong. Meeting the local requirement will be a challenging task for the local planning

authority and the local community. Although the emphasis of provision should be outside the Green Belt, it is possible that some sites will be needed within it. In any event, reducing the outstanding requirement by making available a small private site would be significantly beneficial. There would be other benefits which do not depend upon the presence of these particular occupiers which I have described in the preceding paragraph. Taken together these benefits clearly outweigh the harm so as to constitute the very special circumstances necessary to justify inappropriate development in the Green Belt. Thus it is not necessary to have regard to the personal circumstances or characteristics of the occupiers. I have considered whether the planning permission should be permanent or temporary. In view of my conclusions about the difficulty of meeting need in the District wholly outside the Green Belt and having regard to the particular characteristics of this site, including its suitability in relation to the criteria of policy H12, I am satisfied that the permission should be permanent. There is not the reliable prospect of meeting need on sites outside the Green Belt. Since planning permission is to be granted, it will not be necessary to consider ground (g).

Conditions

21. The conditions to be imposed accord with those proposed by the Council or discussed at the inquiry. It is essential to limit occupation to gypsies and travellers, to reflect the policy on which the decision relies. Control of the intensity of use, including both the number and type of caravans and the presence of commercial vehicles, is important to limit the impact on the surroundings. Retention of existing screening will limit visual impact and control over external lighting serves a similar purpose. The Environment Agency has requested conditions regarding drainage and these are necessary to prevent pollution and avoid local flooding.
22. One of the concerns expressed at the inquiry was the risk of more intensive occupation and also of a spread on to other land. The former will be controlled by condition 2. The latter is not directly related to the development being permitted and would be a breach of planning control against which action could be taken, so that this is not the subject of a condition.

Formal Decision

Appeal Ref: APP/P0119/C/07/2037529

23. I direct that the enforcement notice be corrected by the deletion of the alleged breach in paragraph 3 and the substitution of the following:
 - A. The unauthorised change of use of the land from use for agriculture to use for the stationing of caravans for residential occupation.
 - B. The erection of a log cabin providing associated facilities in conjunction with the residential occupation of a caravan.
24. Subject to this correction I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the change of use of the land from use for agriculture to use for the stationing of caravans for residential

occupation and the erection of a log cabin providing associated facilities in conjunction with the residential occupation of a caravan, on the land shown edged red on the plan attached to the enforcement notice, subject to the following 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 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 3) No more than one commercial vehicle shall be kept on each of the two plots. These shall be for use by the occupiers of the caravans hereby permitted only and they shall not exceed 7.5 tonnes in weight.
- 4) The existing trees and hedges along the site boundaries shall be wholly retained unless any variation is agreed in writing by the Local Planning Authority.
- 5) There shall be no discharge of foul or contaminated drainage or trade effluent into either groundwater or any surface waters, whether occurring directly or via a soakaway.
- 6) The use hereby permitted shall cease and all caravans, structures (including the log cabin), equipment and materials brought onto the land for the purposes of such use shall be removed within six months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for the surface water drainage of the site and of proposed and existing external lighting on the boundary of and within the site (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.
- 7) Following the approval of a scheme for external lighting under condition 6, no such lighting shall be used which is not in accordance with the approved scheme.

Appeal Ref: APP/P0119/A/07/2036122

25. I allow the appeal, and grant planning permission for a change of use of grazing land for the stationing of 3 residential caravans at Shortwood Road, Pucklechurch in accordance with the terms of the application, Ref PK05/1054/F, dated 15th February 2005, and the plans submitted with it, subject to identical conditions to those in paragraph 24 above.

David Baldock

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Green who also gave evidence He called Mrs Yvette Jones	Consultant, Green Planning Solutions Appellant
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FOR THE LOCAL PLANNING AUTHORITY:

Mr J Vaughan LLB He called Ms S Tucker BA BTP MRTPI	Solicitor for the Council Planning officer
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INTERESTED PERSONS:

Mr S Boyett	Local resident, 180 Shortwood Road, Pucklechurch
Mrs D Gorst	Local resident, Shrubbery Lodge, Shortwood Road, Pucklechurch
Mr Holder	Member of Parish Council, 58 Abson Road, Pucklechurch
Mrs M Palmer	Member of Parish Council, 27 Castle Road, Pucklechurch
Mr R Stainer	Avon Travellers' Support Group, 65 Hawthorn Grove, Combe Down, Bath
Mr M Watson	Member of Parish Council and Senior Lecturer in Biomedical Sciences, 49 Partridge Road, Pucklechurch

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 List of persons present at the inquiry
- 2 Statement of common ground

Submitted by the appellant

- 3 Plan of Avon showing Green Belt and Areas of Outstanding Natural Beauty
- 4 Letter from General Practitioner
- 5 High Court Judgement: *Basildon v First Secretary of State and Mrs Temple*
- 6 High Court Judgement: *Mole Valley District Council v First Secretary of State and Henry Smith*
- 7 Letter and e-mail from South Gloucestershire Community Care and Housing Department
- 8 Plan showing land ownership

Submitted by the Council

- 9 Letter from Council concerning review of RSS
- 10 Draft RSS

Submitted by Mr Stainer

- 11 Draft Executive Summary: West of England Gypsy Traveller and Showman Accommodation Assessment
- 12 Letter to Council from Commission for Racial Equality – May 2003
- 13 Extract from reply to Document 12
- 14 Evening Post: housing in Pucklechurch
- 15 Successful appeals in South Gloucestershire
- 16 Evening Post: sites for travellers in South Gloucestershire