

**IN THE MATTER OF AN APPEAL UNDER SECTION 78 OF THE TOWN AND
COUNTRY PLANNING ACT 1990**

APP/W0340/W/22/3292211

LAND AT LAWRENCES LANE, THATCHAM

**OPENING SUBMISSIONS
ON BEHALF OF
THE COUNCIL**

Introduction

1. This planning appeal follows the refusal of a planning application made by Ms C Gumble following unauthorised development on the appeal site (the Site) on 13th August 2021. The Council sought immediately to attempt to halt the unauthorised development and an injunction order was granted, albeit after harmful works had already taken place.

The Site

2. The appeal site is located in open countryside immediately beside Lawrences Lane, a peaceful and tranquil, rural lane recently closed to through traffic as a result of an experimental order prohibiting motor vehicles¹. Thatcham lies to the south/west but there is a transition from urban to rural character which occurs on the junction of Lawrences Lane, just north of Acorn Drive. Aerial photography² demonstrates how

¹ CD 11.1

² See MF Appendix A Landscape Regression

rural the Site was prior to the unauthorised works (from 2005 to 2020), with boundaries of native trees and hedges, and a backdrop of woodland on rising ground. A wholesale change took place on 13th August 2021. It is agreed between the main parties that the Site lies within the setting of the North Wessex Downs AONB³.

The Decision of the Council

3. The planning application was refused by a decision notice dated 19th November 2021⁴ for the following reasons relating to: (i) Inaccurate drawings, (ii) Failure to comply with Policy TS3, (iii) Substandard road, (iv), Substandard pedestrian access, (v) Landscape and visual amenity, (vi) Amenity, (vii) Drainage, (viii) Green infrastructure, (ix) Trees.
4. A “Wheatcroft” consultation⁵ took place on amended plans and the Council no longer takes issue in relation to the Substandard road or Trees.

The Council’s case

5. The Council’s Development Plan (DP) policies provide the starting point for determining this appeal in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004. For this local planning authority, the DP policies are up to date and these proposals are in conflict with the DP.
6. The Core Strategy⁶ was adopted in 2012 and was given specific approval at the time that the general national policy in the NPPF applied. WBDC adopted a sound plan post NPPF. It was not challenged in the courts.
7. The Spatial Strategy policies in the Core Strategy provide the overarching strategy for development in West Berkshire. They carefully provide for where new development should go in the District: “*Development in West Berkshire will follow the existing settlement pattern and comply with the spatial strategy set out in the Area Delivery*

³ Para 3 bullet point 3 SOCG

⁴ CD 5.3

⁵ CD8

⁶ CD 7.2

Plan policies of this document based on the four spatial areas” (ADPP1). The ADPP policies guide development and must be read in conjunction with Policy CS7 and TS3 (the Housing Site Allocations DPD⁷) (HSA DPD) for Gypsy and Traveller sites. Policy TS3 requires that proposals comply with policies in the development plan – together, all these policies make clear where new development is, and is not, acceptable.

8. The Development Plan is to be read as a whole. There is no policy which outweighs others in this appeal⁸.
9. The Council has a relatively recent GTAA (2019)⁹ and has commissioned very recently a “refresh” dated 2021¹⁰. Given the context of the pandemic, the Council should be commended for keeping G&T need under careful review. The assessment of “need” for pitches in the GTAA is robust and makes cautious assumptions such that the figures presented are not manipulated to portray a better case for the Council.
10. The Council disputes that any need for pitches is a matter which attracts significant weight in favour of this appeal. The PPTS advises that the lack of an up-to-date 5 year supply of deliverable sites is a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission only. This local authority has a 5-year supply (endorsed by an Inspector recently)¹¹ and has demonstrated recently¹² that it grants planning permission for appropriate development in appropriate locations.
11. The Council does not have a significant long-term need and action to address the long-term shortfall is in hand¹³. The Council’s Local Development Scheme (LDS)¹⁴ for progression of its Local Plan is on track and the G&T DPD is committed to via the LDS.
12. The Council has allocated pitches as recently as 2017 in the HSA DPD.

⁷ CD 7.3

⁸ *R (oao William Corbett) v Cornwall Council v Stephen Tavener* [2020] EWCA Civ 508

⁹ CD 7.7

¹⁰ CD 7.8

¹¹ Ermin Street DL [46] APP/W030/W/22/3292939

¹² Paices Hill planning permission decision App B MB

¹³ Highly relevant eg *Hallam Land Management v SoSCLG* [51] and *Suffolk Coastal DC v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East Council* [2017] UKSC 37

¹⁴ App F MB

13. This proposal does not come forward via planned development. It does not even come forward as prospective development. It is wholly unauthorised and the planning application and appeal seeks in part to regularise that. The Council refused planning permission because the development is contrary to policy and material considerations do not outweigh the harms caused.
14. The harms are to landscape and visual impact and ecology. The Site, by virtue of its inadequate pedestrian access, introduces 7 new families to a site which will be reliant on the private car. Such reliance in an area in which the Council has declared a climate emergency¹⁵ and which encourages sustainable transport is also harmful. The drainage solution is considered inadequate and not workable without further impact on landscape and/or ecology. There is conflict with ADPP1, CS7, CS13, CS18, CS19, TS3. Circular 06/05 is engaged¹⁶ and NPPF paras 174(b)¹⁷ and (d) weigh against the proposal, as does para 25 PPTS which requires that “*Local Planning authorities should **very strictly limit** new traveller site development in the open countryside...*”. This appeal involves a scale of development which cannot sensibly be described as “limited”.
15. Whilst the best interests of the children are a primary consideration and the personal circumstances of the occupants are a material consideration, these do not outweigh the harms caused.

Conclusions

16. This proposal is in conflict with Development Plan policies and there are no material considerations to outweigh the Development Plan conflict.

¹⁵ Declared 2nd July 2019

¹⁶ *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances...*

¹⁷ “recognising” means the same as “protect”: see *Cawrey Ltd v Secretary of State for Communities and Local Government* [2016] EWHC 1198 (Admin) [49-50]

17. In due course the Inspector will be respectfully invited to dismiss this appeal.

EMMALINE LAMBERT
CORNERSTONE BARRISTERS
2-3 GRAY'S INN SQUARE
LONDON

6th December 2022