

**APPEAL REFS: APP/W0340/W/24/3346878 (Appeal A) and
APP/W0340/C/24/3351139 (Appeal B)**

Appeal Site: Land to the south of Brimpton Lane, Brimpton Common RG7 4RS (Appeal A)

Land south of Brimpton Lane and west of Blacknest Lane, Brimpton Common, Reading (Appeal B)

Description of development: change of use of land to Gypsy/Traveller site comprising the siting of 1 mobile home and 1 touring caravan (Appeal A).

Alleged breach of planning control: without planning permission, the material change of use of the land by the stationing of a mobile home for residential use (the "unauthorised development") (Appeal B).

Inquiry Case Management Summary Note

CMC held at 10:00 on Friday 25 October 2024 (Microsoft Teams)

Introductions

1. The case management conference was led by the Inquiry Inspector, Mr Andrew McGlone BSc, MCD, MRTPI.
2. Noemi Bryd of Counsel will represent West Berkshire District Council (the Council).
3. Ben Fullbrook of Counsel will represent Brimpton Common Residents Group (BCRG), a Rule 6 party to the Inquiry (Appeals A and B).
4. The Appellant was represented by Peter Brownjohn. Counsel for the Inquiry is to be confirmed as soon as possible.
5. The purpose of the conference was to discuss the ongoing management of the case, not the merits of the parties' positions.

Inquiry format

6. The Inquiry will take place in-person and will open at 10.00am on Tuesday 14 January 2025, resuming at 09:30 on subsequent sitting days. The Inquiry will not sit later than 17:00.
7. The Inquiry is scheduled to sit for up to 4 days. A reserve day will be fixed and/or a day for closings online. My availability has been circulated. It is hoped that the extent on agreement that can be reached between the three parties will mean that the reserve day will not be required.
8. If there are any time constraints for any witness or advocate that might

need to be catered for, please advise the case officer at the earliest opportunity.

9. The Inquiry will be held West Berkshire Council Offices, Market Street, Newbury RG14 5LD. The venue is large enough to accommodate everyone who may wish to attend, and there are suitable rooms for each party outside of the Inquiry room.
10. Sessions at the Inquiry will last for about 1.5 hours with at least 15 minute breaks between, longer over lunch. There are likely to be two sessions in the morning and two in the afternoon.
11. Local people and organisations are encouraged to take part in the Inquiry process, as local knowledge and opinion can often be a valuable addition to the evidence given by the main parties. If there are several people with the same views, it is often a good idea for one person to speak on behalf of the others, to avoid repetition.

The Enforcement Notice

12. Grounds (a), (b) and (g) have been lodged in respect of Appeal B.
13. At the CMC I aired several questions about the notice's allegation and requirements. Your views on the allegation and requirements of the enforcement notice (Appeal B), the description of development (Appeal A) and the situation on the ground have been sought in writing. Responses are due 4 November.
14. I hope the position will become clearer in respect of ground (b) once I have received your responses about the notice. If there are outstanding matters to cover, then ground (b) will be heard first at the Inquiry and PoE will be required addressing any matters that are not agreed.

Main issues

15. As a result of discussions at the CMC, the main issues for Appeal A and ground (a) on Appeal B are set out below.
 - 1) whether the appeal site is a suitable location for the proposed development, including whether occupants would have adequate access to facilities and services, having regard to local and national policies;
 - 2) the effect of the proposal on the character and appearance of the area;
 - 3) whether the proposal would ensure public safety, having regard to AWE Aldermaston and Burghfield;
 - 4) the proposal's effect on ecology, including biodiversity net gain;
 - 5) the proposal's effect on green infrastructure;
 - 6) the proposal's effect on Grade II listed building at Lane End Cottage and the Scheduled Monument of Bell Barrow; and
 - 7) whether there are material considerations which exist that outweigh any conflicts with the Development Plan and any other identified harm resulting from the appeal proposal
 - a) need and supply
 - b) alternatives
 - c) personal circumstances

- d) intentional unauthorised development
- e) precedent
- f) anything else

Dealing with the evidence

16. At this stage, I expect more detailed evidence may need to be heard on various items, but potentially not on others. The latter may take the form of individual round table discussions or by taking evidence as read. At this stage, I anticipate issues 1, 3, 4, 5 and 7 may need more detailed evidence, along with matters relating to planning policy and the overall planning balance, including any other considerations and benefits of the proposal. This will require formal presentation of evidence and cross examination. However, my view is not fixed, and I will keep matters under review depending on the extent of your agreement and disagreement. The parties agreed that issue 2 would be best dealt with by a round table discussion. The Appellant's evidence will also need to address any other matters raised.
17. There is dispute about whether the site is in a valued landscape. That matter will be considered as part of main issue 2.
18. BCRG will be calling a witness(es) to cover issues 1, 2, 3 and 7. BCRG are to confirm its position in respect of issues 4 and 5 and whether witnesses will be called by 4 November. The Council has confirmed it intends to continue with its ecology case (issues 4 and 5).
19. Further work is required on main issue 6 to help inform whether a roundtable session is necessary, whether written statements would suffice or whether written statements plus written responses to any questions that I have may be appropriate. I will confirm the approach after the SoCG Addendum is submitted. BCRG will not be calling a witness on this matter.
20. The Council has withdrawn its case on highway safety. BCRG will not be calling a witness on this matter but has raised written concerns. The Appellant should seek to address those concerns in its PoE and be prepared to respond to any questions that interested parties, or I raise.
21. The suggested planning conditions will be dealt with by round table discussions. No planning obligation is required in this case.
22. A list of each party's witnesses and the topics they intend to cover should be provided by 8 November.

Further work

23. A tri-party Statement of Common Grounds (SoCG) has been submitted for both appeals. That said, it was agreed that further targeted work would be beneficial in the lead up to the Inquiry.
24. The Appellant has been asked to clarify the land ownership situation and whether the correct certificate has been completed by 4 November.
25. The Appellant has been asked to engage with BCRG's request regarding the Personal Circumstances document. The Inquiry needs to operate in an open, fair, and transparent manner and I will be reaching my decisions having regard to the circumstances raised, but witnesses will need to be able to give evidence insofar as the bearing of those circumstances on the planning

merits of the case.

26. The parties agreed to work on an SoCG Addendum. This should be agreed and signed by all the main parties. That will cover several matters.
 - a. Status of the intended occupants having regard to the PPTS definition. I understand the Council and BCRG are looking for further satisfactory evidence to support the Appellant's position.
 - b. Policy – I would like each party to comment on any potential policy changes compared to when the planning application was determined, and whether there are any implications for your cases, and if so, what are they. Given the appeal timetable, there is a possibility that the national policy position will be firmed up before, during or shortly after the inquiry so I will need your comments.
 - c. Need, supply, and alternatives - I wish to clearly understand the position on this and whether there is any difference of opinion. Even if you disagree on certain matters, I would at the least like you to factually agree each other's figures, but please note any reasons why you disagree. Please ensure the inquiry is focussed and agree as much as you possibly can. It is in everyone's interests to ensure that Inquiry time is used effectively.
 - d. AWE – I understand that the Council disagrees with the Appellant that the reason for refusal can be overcome. I note the disagreement, but I am unclear on the reasons why. I would like the parties to engage on the subject and see whether there is any common ground here and in respect of the adequacy and challenges of the OSEP that the Council refer to in its SoC. Please agree points that you can, and outline those in disagreement alongside the reasons why.
 - e. Heritage - I will need copies of any listings which are of relevance to the appeals. I would also like comments from each party about their significance/setting, the proposal's effect, whether any harm would be caused, and if so, to what extent. If there is disagreement on the proposal's effect, I would like each party to clearly outline the reasons why you hold a difference of opinion.
 - f. Facilities and services - so that everyone can refer to the same information it would be beneficial for map to be produced of facilities and services in the area. The extent of those is for you to determine between yourselves, but I would like a colour map showing where they are, what they offer and how far they are from the site.
 - g. Valued landscape - I would like each party to outline what you consider to be relevant factors that influence the landscape's value, note any that are agreed or disagreed and the reasons why. Please include any supporting information or maps if relevant.
 - h. Green infrastructure - I would you all to set out the reasons why you disagree about whether or not the development results in the loss of green infrastructure.
 - i. Ecology - if this remains a disputed matter, I would like the parties to engage and set out if there are any areas that can be agreed, and what remains in disagreement and why.

- j. Draft suggested conditions – please discuss and agree these for Appeal A and ground (a) on Appeal B. The conditions should take into account the three options put forward by the Appellant even if they are not your principal case. Please provide the draft list in a word document.
27. A ground (g) case has been made on Appeal B. A longer time period suggested by the Appellant, but the reasons why are unclear. The Appellant should submit its reasons before PoE so that the other parties have an opportunity to reply through their submissions. This should hopefully avoid abortive work after PoE are submitted.

Core Documents

28. A Core Document list will need to be discussed and agreed in advance of preparing your PoE's so they can be properly referenced in them. The list should be comprehensive, and everyone is to work to the same system.
29. The agreed Core Documents list and documents should be sent electronically to the Planning Inspectorate at the same time as PoEs. Please ensure everyone is working to the same system. However, a Core Documents list containing documents not being used just creates unnecessary work for all. The Appellant is taking the lead on preparing the Core Document list.
30. **Please ensure Core Documents:**
- a. comprise **only** those to which you will be referring to in your evidence, otherwise, do not include it. **Keep the number to the absolute minimum as in my experience not many are actually referred to.**
 - b. group documents on a topic basis.
 - c. use a clear and simple referencing system.
 - d. do not duplicate the document within your PoE.
 - e. contain the front page and policies from the development plan that are of relevance to the appeal.
 - f. references to the Framework and PPG should be made within a particular point and identified by a Reference ID.
 - g. any appeal decisions and/or legal authorities are to be relied upon they are to be prefaced with a note explaining the relevance of the document to your case, the propositions on which you are seeking to rely, with the relevant paragraphs flagged up. Volumes of appeal decisions do not necessarily improve a point. Many are often not directly comparable. If there is no note, I will be asking for one to be provided or for the document to be removed.
 - h. do not include superseded documents or plans unless there is a good reason to.
31. The Appellant will produce an A3 colour bundle of the plans. This should be brought to the Inquiry in hard copy (including copies for each party) and added to the Core Document list as a single item if possible.
32. The Council will take the lead on creating a website for all the Inquiry so that PoE, SoCG, Core Documents, schedule of suggested conditions, and any Inquiry Documents are available in a single place digitally. Details of the website and contact details for the person(s) who will keep this page

updated during the Inquiry should be provided.

33. It is expected that all necessary documents will have been submitted in advance of the Inquiry. Any additional documents can only be accepted to the Inquiry (and the Inquiry library) with the Inspector's permission.

Inquiry Running Order / Programme

34. On the first day, I will start the Inquiry with my opening comments. There will then be opening statements from the main parties: Appellant, then followed by the Council, BCRG, and any other interested parties. These should be no longer than 10 minutes each.
35. The Inquiry will then hear from any interested parties who wish to speak although there is scope for some flexibility if someone has difficulties that prevent them from attending and speaking on day one.
36. The programme will be confirmed nearer to the time. If matters remain in dispute relating to the ground (b) case on Appeal B this would be heard first. Ideally thereafter a topic-based approach would be followed for Appeal A and ground (a) on Appeal B. The running order for that will be confirmed nearer the time once witnesses are confirmed and I know the extent of your agreement/disagreement on matters. Suggested planning conditions will be discussed at a suitable point in the programme. The case on ground (g) would be heard after the planning merits.
37. After hearing the evidence, closing submissions will be heard. BCRG will go first, followed by the Council, then the Appellant. I will need a copy of your openings and closings in Word format, which will need to be sent to the PINS case officer before you present them. Adequate time will be provided for the preparation of closings.

Timetable for submissions

4 November	<ul style="list-style-type: none"> • Responses on the allegation and requirements of the notice, description of development, situation on the ground • Appellant reply about site ownership and certificates • BCRG response about ecology case
11 November	<ul style="list-style-type: none"> • Final comments for Appeal B
2 December	<ul style="list-style-type: none"> • Appellant confirm or update Personal Circumstances Statement • Appellant ground (g) reasons • Statement of Common Ground Addendum
17 December	<ul style="list-style-type: none"> • All proofs of evidence (including appendices and any summary proofs) – <u>see attached notes on content and format.</u> • Draft list of suggested planning conditions in word • Agreed Core Document List and electronic copies of documents
30 December	<ul style="list-style-type: none"> • Council's notification of Inquiry – letters and press notice • Appellant display of site notice
3 January	<ul style="list-style-type: none"> • Any necessary rebuttals
6 January	<ul style="list-style-type: none"> • Time estimates • Details of website for Inquiry and contact person(s). Core documents and Inquiry documents ready on website • Plan of site visit itinerary

Other matters

38. **I will advise the parties if any paper copies of PoE, appendices and summary PoE need to be provided in hard copy after the submission of PoE. If any hard copies are required, they should be brought to the Inquiry.**
39. I am not encouraging the submission of supplementary or rebuttal proofs. I would hope these will not be necessary given the evidence thus far and the further work set out to be carried out before proofs are submitted.
40. I will carry out a site visit during the Inquiry. A time and date for this will be arranged once the draft programme is prepared.
41. Any Costs Applications if not already submitted must be made before the close of the Inquiry. It would help programming if you could give notice of whether you intend to make an application for costs as early as possible.

Andrew McGlone

INSPECTOR

29 October 2024

Content and Format of Proofs and Appendices

Content

Proofs of evidence **should**:

- focus on the main issues identified, in particular on areas of disagreement;
- be proportionate to the number and complexity of issues and matters that the witness is addressing;
- be concise, precise, relevant and contain facts and expert opinion deriving from witnesses' own professional expertise and experience, and/or local knowledge;
- be prepared with a clear structure that identifies and addresses the main issues within the witness's field of knowledge and avoids repetition;
- focus on what is really necessary to make the case and avoid including unnecessary material, or duplicating material in other documents or another witness's evidence;
- where case law is cited in the proof, include the full Court report/ transcript reference and cross refer to a copy of the report/ transcript which should be included as a core document.

Proofs **should not**:

- **Duplicate information already included in other Inquiry material.** So in respect of items such as the reasons for refusal, descriptions of the site and development and planning history, if they are described in a statement of comment ground, decision notice, committee report or application document, they should not be duplicated in a proof, with crossing referencing back to the source inquiry material; and
- **Recite at length the text of policies referred to elsewhere:** the proofs need only identify the relevant policy numbers, with extracts being provided as core documents. Only policies which are needed to understand the argument being put forward and are fundamental to an appraisal of the proposals' merits need be referred to.

Format of the proofs and appendices:

- Proofs to be no longer than 3000 words if possible. Where proofs are longer than 1500 words, summaries are to be submitted.
- Proofs are to be spiral bound or bound in such a way as to be easily opened and read.
- Appendices are to be bound separately.
- Appendices are to be indexed using **projecting tabs**, labelled and **fully paginated**.
- Electronic copies of proofs, summaries and appendices to be submitted to case officer at The Planning Inspectorate on the specified date with **1 printed copy of each proof, summary and appendix** sent to the case officer at The Planning Inspectorate within 3 working days thereafter.