
Appeal Decision

Hearing held on 14 September 2016

Site visit made on 14 September 2016

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 9 February 2017

Appeal Ref: APP/B1930/W/16/3147393

Ardens Rise, House Lane, St Albans AL4 9HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Michael Connors against the decision of St Albans City & District Council.
 - The application Ref 5/15/2756, dated 21 September 2015, was refused by notice dated 16 February 2016.
 - The application sought planning permission for a change of use to allow the stationing of three caravans for gypsies and travellers and to retain the existing use of stabling horses without complying with a condition attached to planning permission Ref 5/15/0767, dated 26 August 2015.
 - The condition in dispute is No 2 which states that: *"There shall be no more than three pitches on the site and on each of the three pitches hereby approved no more than two caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed at any time, of which only one may be a static caravan or mobile home, and the second caravan must be a touring caravan."*
 - The reason given for the condition is: *"To ensure that the Council can retain proper control over the site in the interest of the openness and visual amenity of the Metropolitan green Belt. To comply with the aims and objectives of the National Planning Policy Framework 2012, and Planning Policy for Traveller Sites 2012."*
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Decision

1. I allow the appeal and grant planning permission for a change of use to allow the stationing of three caravans for gypsies and travellers and to retain the existing use of stabling horses at Ardens Rise, House Lane, St Alban's AL4 9HE in accordance with the application Ref 5/15/2756, dated 21 September 2015, without compliance with condition number 2 previously imposed on planning permission Ref 5/15/0767, dated 26 August 2015 but subject to the conditions set out in Schedule 1 of this decision.

Preliminary matters

2. Notwithstanding how the development is described above for procedural reasons, the application proposed to increase the number of pitches from 3 to 6 and the Council has determined the application on this basis. At the Hearing it emerged that 3 additional pitches have already been provided on the site.

Main Issues

3. The main issues in this appeal are;

- Whether the proposed development amounts to inappropriate development in the Green Belt and any other effects on the Green Belt
- Whether there are any other matters to clearly outweigh the Green Belt harm.

Reasons

Green Belt

4. Policy 1 of the St Albans District Local Plan Review 1994 identifies specific types of development that may be acceptable in the Green Belt; this does not include the proposed development. Policy 1 also recognises that 'very special circumstances' may exist which mean that other forms of development may be permitted. The Planning Policy for Traveller Sites (PPTS) recognises that inappropriate development is harmful to the Green Belt and should not be permitted except where very special circumstances are established. It adds that, "subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."
5. The appellant and the Council agree that the proposal represents inappropriate development in the Green Belt. In addition, the appellant confirms that the proposal to increase the number of pitches from 3 to 6 and the consequent maximum number of caravans from 6 to 12, would involve a loss of openness to the Green Belt. The National Planning Policy Framework identifies that openness is one of the essential characteristics of the Green Belt. The site area would not increase as a result of the proposal but the numbers of caravans, vehicles and other paraphernalia would increase significantly. The appellant also agrees that the harm to the Green Belt by reason of inappropriateness and the erosion of openness must carry substantial weight; a view that I concur with and I would describe the effect on openness as moderate.

Other Matters

Local Provision and Need for Sites

6. The Council published its 'Gypsy and Traveller and Travelling Showpeople Accommodation Needs Assessment' (GTANA) in August 2015. The GTANA identifies the public and private sites within the District, including the temporary and tolerated sites. It discloses that all of the sites were fully occupied with no spare capacity. In relation to need, the GTANA sets out that 79 additional pitches are required for the period 2014-2031, 47 of which are required by 2019. The appellant identifies that the granting of permanent permission at the appeal site for 3 pitches is the only contribution made to meeting this need, a point accepted by the Council.
7. The Council acknowledge that there is no spare capacity and no unbuilt permitted sites in the District. Reference was made to the Council's emerging policies in its Strategic Local Plan (SLP), including Policy SLP 12 which relates to Gypsy, Travellers and Travelling Showpeople accommodation. Whilst it was acknowledged that the policy is in its infancy and could only be afforded very limited weight it is of interest to note that reference is made to all of the

District's sites being in the Green Belt and that, in part, need could be met by extending existing sites.

8. On the basis of the evidence submitted at the Hearing, it seems that there is considerable need for such sites within the District. Further, it seems unlikely that these needs are likely to be met within the near future. I attach considerable weight to this in the determination of this appeal.

Personal Circumstances

9. The permitted 3 pitches and the 3 new pitches are occupied by the appellant's extended family; that is, his adult children and their families. The 3 pitches which are the subject of this appeal are occupied by the following households: Patrick and Ann Maloney and their 3 children; Margaret Connors and her husband Miley Cash, and Margaret's daughter also named Margaret; Patrick and Katie Connors and their 2 children. It was explained that the adult male members of the households travel throughout the country to seek work and there are times when family groups also travel, although schooling of the children limits this.
10. The Council does not dispute the traveller status of the occupiers of the pitches, having regard to the definition in the PPTS. I am satisfied that the occupants of the 3 pitches that are the subject of this appeal are travellers for the purpose of planning policy.
11. On the 3 new pitches there are 7 children; 3 of these are of school age and I was informed that 1 of these is home-tutored. This leaves 2 attending local schools and 3 of the younger children attend a local pre-school nursery and it is intended that they will attend the same primary school as their relatives. I was also informed that one of the younger children requires regular medical appointments necessitated by an earlier illness, details of which I have been provided with. I acknowledge that the availability of a settled base facilitates access to education and healthcare services and this is an important factor in support of the appeal to which I attach substantial weight.

Conclusions

12. I have given substantial weight to the harm to the Green Belt by reason of inappropriateness and the harm that the additional 3 pitches cause to the openness of the site. I have also taken account of the fact that the appeal relates to the provision of additional pitches on an existing site and, in relation to the Green Belt, it is acknowledged that harm has already arisen from the permitted 3 pitches and associated development.
13. In favour of the appeal, the Council is unable to demonstrate a supply of sites and there is a clear unmet need for which there seems little prospect of satisfying in the immediate future. The Council's emerging SLP policy would seek to rely, at least in part, on the expansion of existing sites, all of which are in the Green Belt. However, this policy and the remainder of the SLP is not likely to be adopted until later in 2017 and the subsequent detailed site allocations would be contained in another local plan document which, I was told, is likely to come about in 2019.

14. I now turn to the interests of the children who are resident on the 3 pitches which are the subject of this appeal, which is a primary consideration in my assessment of this appeal. The stable base that is provided by the appeal site is a clear factor in enabling those children identified to undertake consistent attendance at the same school over a period of time. Although one of the older children is tutored at home, others attend local schools and, with their continued presence on the site, it seems likely that those younger ones who are approaching school age would do the same. It is in their best interests to remain at the site.
15. The most likely consequence of dismissing the appeal would be that the households including those relevant children would have to find alternative accommodation. There is no alternative accommodation within the locality and the District as a whole and there seems no realistic prospect of this changing within the near future. I find it very likely therefore, that moving from the appeal site would either involve living at the roadside or moving outside the area. It is equally likely that these options would bring about a disruption to the continued attendance at school for those children and consequent disruption to their hitherto stable education. I attach substantial weight to these matters.
16. When weighed together I find that the substantial weight given to the harm to the Green Belt is clearly outweighed by the other matters set out above, and with particular regard to the needs of the children. Therefore, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Conditions

17. The effect of this successful appeal is to create a new planning permission and so consideration needs to be given to the need for all necessary conditions as well as that which is the subject of the appeal. I shall impose a condition which restricts the number of pitches to 6, as sought by the appeal, but as the justification for an additional 3 rests in part with the personal circumstances of the named households, a personal restriction is necessary. The personal restriction would only be relevant to the 3 new pitches as the existing 3 pitches are not restricted in this way.
18. The case relies, in part, on the need for gypsy and traveller accommodation in the area. In order to ensure that the site would continue to provide this type of accommodation, a condition restricting occupation to gypsies and travellers would be necessary. Conditions concerning the number and type of caravans and a restriction on commercial activities and storage are important to safeguard the character and appearance of the area. The development has already been undertaken and the site is not laid out in accordance with the submitted drawing and so a condition requiring the Council's approval to the layout of the site is necessary.
19. In the circumstances that the development has been undertaken, I consider that the Council's suggested number of conditions relating to landscaping and tree protection is not necessary and I shall impose a less onerous one in order that an agreed scheme is secured and implemented. In addition, as the

development has already been undertaken, the standard condition relating to the commencement of development is not necessary

S T Wood

INSPECTOR

Schedule 1 Conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 2) The occupation of the 3 additional pitches over and above those granted also by planning permission Ref 5/15/0767, hereby permitted shall be carried on only by the following and their resident dependants: Patrick and/or Ann Maloney; Margaret Connors and/or Miley Cash; Patrick and/or Katie Connors.
- 3) When any of the 3 pitches referred to in condition 2 ceases to be occupied by those named in condition 2 above, the use on the 3 pitches identified shall cease and all caravans, structures, materials and equipment brought on to or erected on the land containing the 3 additional pitches, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 4) There shall be no more than 6 pitches on the site and on each of the 6 pitches hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan and any second caravan must be a touring caravan.
- 5) In relation to the area containing the 3 additional pitches, referred to in condition 2 above, the use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 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 internal layout of the site, including the siting of caravans, pitches, hardstanding, parking and amenity areas; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; the restoration of the site to its condition before the development took place, (or as otherwise agreed in writing by the local planning authority) at the end of the period for which the site is occupied by those permitted to do so, (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision 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 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.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained/retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 6) At the same time as the site development scheme required by condition 5 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of the proposed planting

beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

- 7) No commercial activities shall take place on the land, including the storage of materials.

APPEARANCES

FOR THE APPELLANT:

P Brown
M Connors

FOR THE LOCAL PLANNING AUTHORITY:

M McNamara
P Coyle

INTERESTED PERSONS:

L Bolton
J Green
B Stubbs