



Appeal Decision

Site visit made on 28 November 2017

by Lesley Coffey BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2018

Appeal Ref: APP/H1515/W/17/3180932

The Willows, Place Farm Lane, Doddington, Brentwood, Essex CM15 0HZ

- 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 Sidney Davis against the decision of Brentwood Borough Council.
 - The application Ref 17/00732/FUL, dated 9 May 2017, was refused by notice dated 7 July 2017.
 - The development proposed is siting of a 2 bed mobile home to accommodate growing family (youngest son and four grandchildren).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal relates to the siting of an additional mobile home. At the time of my visit it would appear that an extension was in the process of being added to the mobile home which is the subject of this appeal. This did not form part of the application, nor is it referred to in the appeal submissions. I have therefore determined the appeal on the basis of the plans considered by the Council at the time of the application.

Background

3. There are currently 4 mobile homes on the appeal site, including the one which is the subject of this appeal. Planning permission was granted at appeal in 1993 for a mobile home. This is located towards the front of the site. Following a further appeal in 2007 planning permission was granted for two additional mobile homes for a period of three years. These homes were to provide accommodation for two of the appellant's three sons. Due to the absence of an adopted Local Plan with allocated gypsy and traveller sites the Council granted a further temporary permission for a period of three years. This permission will expire in February 2018. The current proposal is for a further mobile home to accommodate Mr Davis's youngest son, Jamie.
4. At the time of the original appeal the Council accepted that the appellant and his family were gypsies and travellers for planning purposes. A revised Planning Policy for Traveller Sites (PPTS) was published in 2015. Amongst other matters this revised the definition of 'gypsies and travellers' for the purposes of the planning policy. Unlike the previous definition, the revised definition excludes those who have ceased to travel permanently. This group

no longer falls under the planning definition of a traveller for the purposes of assessing accommodation need for gypsies and travellers in a Gypsy and Traveller Accommodation Assessment (GTAA).

5. The Council considers that whilst the occupants of the proposed mobile home may be ethnic gypsies they would not fall within the new definition since there is no information to indicate that they are 'persons of nomadic habit of life'. No information has been submitted to indicate whether the appellant and/or his son continue to travel. I am therefore unable to conclude that the intended occupants of the mobile home come within the definition of gypsies and travellers at annex 1 of PPTS.

Main Issue

6. I consider the main issue to be whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including the need for sites, and the accommodation needs and personal circumstances of the intended occupants of the mobile home. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development and other harm to the Green Belt

7. The appeal site is situated within the Green Belt where policy GB1 of the Brentwood Replacement Local Plan 2005 states that planning permission will not be granted for the change of use of land, or the construction of new buildings other than those appropriate to the Green Belt. Policy GB2 states that proposals within the Green Belt should not conflict with the purposes of including land within it, or harm the openness of the Green Belt. Although the Local Plan was adopted prior to the National Planning Policy Framework (the Framework) these policies are generally consistent with the policies within it. I therefore afford them significant weight.
8. The use of the land for the stationing of a caravan does not come within the categories of development listed as 'not inappropriate' at paragraph 90 of the Framework and therefore it is inappropriate development. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also give rise to additional harm through the reduction in the openness of the Green Belt and would encroach upon the countryside and therefore conflict with one of the purposes of the Green Belt
9. The mobile home is located towards the northern end of the overall site and is separated from the various other structures on the site by a close boarded fence. It is screened in views from Place Farm Lane by the mobile home at the front of the site. The site is separated from Blackmore Road by a field and is screened to a limited extent by the existing hedgerow. However, the proposal would increase the extent to which the existing use would extend into the countryside. As such, it would appear as an intrusion into the countryside and give rise to harm to the character and appearance of the countryside.
10. I conclude that the proposal is inappropriate development within the countryside and would give rise to other harm to the Green Belt. As such it

would be contrary to policies GB1 and GB2 of the Local Plan, as well as national planning policy.

Other Considerations

Need for and Supply of Sites

11. Limited evidence has been submitted in relation to the need for and supply of sites. The Council state that the most recent Essex GTAA (July 2014) indicated that there was a need for 84 gypsy and traveller sites within the Borough for the period up to 2033. However, it considers that the present requirement may be as low as 12 pitches in that the majority of travellers may not meet the amended definition of gypsies and travellers in PPTS. Nonetheless, this lower figure does not appear to be based on a robust assessment of need and I afford it little weight.
12. At the time of the January 2017 caravan count there were a total of 120 caravans in the Borough, of which 16 had temporary planning permission and 46 had permanent planning permission; the remainder (58) were unauthorised sites without planning permission. The caravan counts are a snapshot in time rather than an assessment of the extent of need. Therefore, as acknowledged by the Council, it does not include any assessment of need due to overcrowding or concealed households on existing sites, those living in bricks and mortar within the Borough who would prefer to live in a caravan, or the future need for pitches as family circumstances change. Equally there is no assessment of pitches becoming available due to mortality or migration out of the Borough. Taken together the evidence indicates that there is a significant un-met need for pitches within the Borough at the present time.
13. The emerging Draft Local Plan 2013-2033 was published for consultation purposes in January 2016. This aims to provide a minimum of 84 pitches by 2033. However the plan is at a very early stage and there remain uncertainties as to the number of pitches required. No evidence has been submitted in relation to the location or timing of any additional pitch provision.
14. On the basis of the submitted evidence there would appear to be a pressing need for pitches within the Borough, and the Council does not have a five year supply of pitches in accordance with paragraph 10 of PPTS. This matter adds significant weight in favour of the proposal.

Policy

15. The Council state that at the present time there are no development plan policies in relation to gypsy and traveller accommodation needs. I understand that policy DM28 within the emerging Local Plan sets out a number of criteria in relation to gypsy and traveller sites, however no information in relation to these criteria has been submitted. Notwithstanding this, due to the stage that plan has reached there is no certainty that the policies within it will be found sound in their present form. Therefore based on the submitted information I am unable to take the policies in the emerging Local Plan into account.
16. PPTS sets out national policy in relation to gypsy and traveller sites. It confirms that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

17. PPTS requires that local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies and increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply. PPTS is clear that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. It states 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.
18. Policy B requires local planning authorities to identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Where there is no identified need for pitches paragraph 11 states that locally specific criteria used to guide the allocation of sites in plans, or which form the policy where there is no identified need for pitches, should be used to assess applications that may come forward on unallocated sites. In this case there is no five year supply of sites or any locally specific criteria against which to assess the proposal. This failure of policy adds further significant weight in favour of the proposal.
19. Paragraph 13 of PPTS requires local planning authorities to ensure that that traveller sites are sustainable economically, socially and environmentally. It sets out a number of criteria in respect of sustainability principles as they relate to gypsy and traveller sites. Whilst these criteria are not strictly related to decision-taking they are a clear indication of those matters which the Government considers important in ensuring that development is sustainable.
20. The family has occupied the site since at least 1993 and there is no evidence to suggest that they do not co-exist peacefully with their neighbours. Therefore the site would satisfy criterion a). The site would provide the family with a settled based from which to access education and health services in accordance with criterion b) and c). It would also provide a settled base that would reduce both the need for long-distance travelling and possible environmental damage caused by unauthorised encampments in accordance with criterion d).
21. No evidence has been submitted to suggest that there would be any environmental factors that would impact on the health or well-being of the intended occupants, or that the site is at risk of flooding. The family have lived on the site for some time, and are registered with a range of local services. I am therefore satisfied that the proposal would be consistent with the sustainability aims of paragraph 13 of PPTS. Notwithstanding this, the proposal would conflict with in PPTS as a whole due to the location of the site within the Green Belt.

Appellant's Personal Circumstances and Accommodation Needs

22. The appellant's grand-children attend the local primary school and nursery. He believes that if they needed to move schools this would hinder their education and confidence. They are also are registered with a local doctor's surgery. Two of the children need to attend the surgery regularly due to an on-going health issue. I accept that it is important for the children to have a settled base that would allow them to access educational and health services. Whilst this need could be met from any lawful site, the settled base provided by the appeal site adds weight in favour of the proposal.

23. Jamie Davis has lived on the site all of his life and there are no other pitches in the area. He was on the housing list but has not been successful in finding a home. The appellant explains that his other sons reside at the site and since Jamie is the youngest there would not be a requirement for any additional pitches in the future.
24. The Council do not suggest that there are other more suitable sites available within the Borough, and it would seem that Jamie Davis has been unable to access alternative accommodation, including bricks and mortar housing. The absence of any alternative site or accommodation adds further weight in favour of the proposal.
25. Although the appellant's other sons also live on the site, I note that their pitches are subject to a temporary planning permission which is due to expire in the near future. It is unclear from the Council's submission whether this permission is likely to be renewed. Whilst the appellant may not require the provision of additional pitches if the appeal is allowed, this consideration does not add weight in favour of the proposal, or justify further inappropriate development within the Green Belt.
26. The appellant states that prior to the determination of the application a planning officer suggested that the mobile home could be moved into the yard. There is no further information before me in relation to this matter; moreover I note that the mobile home has already been provided in the location shown on the submitted plans.

Human Rights

27. Refusing planning permission would result in an interference with Jamie Davis's right to a home and family life set out in Article 8 of the European Convention on Human Rights. However, that interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 8, particularly the protection of the environment including on of the Green Belt.
28. Until recently Jamie, his partner and children resided with his parents (the appellant and his wife) and no evidence has been submitted to suggest that he would be unable to resume living with his parents. I appreciate that living conditions may be cramped, but there are several storage buildings on the wider site that may help to alleviate the pressure on accommodation. Consequently refusing planning permission would not necessarily compel the family to live by the roadside. They would remain able to attend the same local school, nursery and doctor's surgery. Moreover, it would seem that the family is willing to consider bricks and mortar housing and therefore there would be a range of housing options available to the family.
29. I have also had regard to the best interests of the children which is a primary consideration as confirmed by *ZH(Tanzania) v SSHD*. In the present case, it seems to me that the most important requirement for the children is that they have a settled base that would allow them to continue to access educational and health services. However these needs could be met from any lawful site or from sharing accommodation with their grand-parents or other relatives and is not dependant on the proposed mobile home. Although the children are settled at the local school, they are at an early stage in their education and a planned move would be unlikely to be unduly disruptive to them.

Planning Balance

30. The Framework and PPTS clearly state that gypsy and traveller sites are inappropriate development in the Green Belt. Substantial weight must attach to the harm to the Green Belt by reason of inappropriateness, together with further weight as a result of the loss of openness, and encroachment into the countryside. The Framework states that inappropriate development should not be approved except in very special circumstances, which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
31. I attach moderate weight to the harm to the character and appearance of the countryside. In addition, intentional unauthorised development within the Green Belt is a further material consideration to be weighed against the proposal. PPTS is clear that where the proposal is on land designated as Green Belt the absence of an up-to-date 5 year supply of deliverable sites does not constitute a significant material consideration.
32. Although there is insufficient information for me to conclude that Jamie Davis comes within the definition of gypsies and travellers at annex 1 of PPTS, the considerable un-met need for pitches within the Borough and the absence of any alternative accommodation available to Jamie Davi, add significant weight in favour of the proposal.
33. The need for a settled base from which to access healthcare and education also weighs in favour of the proposal. However, the family previously resided with the appellant, and whilst I appreciate that living conditions may have been cramped, it would nevertheless allow the family to continue to access education and health services. Therefore this matter adds moderate weight in favour of the proposal.
34. PPTS states 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. I therefore find that these other considerations taken separately, or together, do not clearly outweigh the substantial harm that would be caused to the Green Belt. Consequently, very special circumstances do not exist to justify the proposal.

Conclusion

35. For the reasons given above I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR