



Appeal Decision

Hearing held on 20 August 2019

Site visit made on 20 August 2019

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15th October 2019

Appeal Ref: APP/M1520/W/18/3213684

Janda Field, Fane Road, Benfleet, Essex SS7 3NQ

- 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 Messrs M, M, M & P McCarthy against the decision of Castle Point Borough Council.
 - The application Ref 17/0632/FUL, dated 29 August 2017, was refused by notice dated 31 July 2018.
 - The development proposed was originally described on the application form as "1no caravan removed and replaced with 6no static caravans/travelling pitches for family of M M M and P McCarthy only"
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to 3 Traveller pitches with no more than 3 static caravans per pitch at Janda Field, Fane Road, Benfleet, Essex SS7 3NQ in accordance with the terms of the application, Ref 17/0632/FUL, dated 29 August 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) 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).
 - 3) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Pitch 1: Mr Michael McCarthy Snr, Mr Miles McCarthy (son of Michael McCarthy Snr), Mr Felix McCarthy (son of Michael McCarthy Snr); Pitch 2: Mr Miles McCarthy Snr, Ms Irene McCarthy (daughter of Miles McCarthy Snr), Mr Miles McCarthy (son of Miles McCarthy Snr); Pitch 3: Mr Patrick McCarthy (nephew of Michael and Miles McCarthy Snr), Mr Miles McCarthy (nephew of Michael and Miles McCarthy Snr) and Ms Maggie McCarthy (daughter of Michael McCarthy Snr).
 - 4) No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 9 shall be a static caravan) shall be stationed on the site at any time.
 - 5) The static caravans shall be sited in accordance with plan no. JF/2/17p hereby approved.

- 6) When the land ceases to be occupied by those named in condition 3, all hard standings, caravans, structures, materials and equipment brought on to the land in connection with the approved use shall be removed from the land within 6 months of the cessation of that occupation.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 8) Within the site there shall be no open storage of scrap metal, timber or other materials associated with any commercial activity.
- 9) Before the development is brought into first use, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Procedural Matters

2. Planning permission was granted via appeal decisions¹ dated 22 July 2015 for the change of use from animal sanctuary to three Travellers pitches with associated works and for the keeping of horses at Janda Field. The permissions relate to a different site area compared to the red line boundary for the current appeal site. That site area includes the pasture/paddock to the east and vacant land to the north (within the blue line boundary for the current appeal site).
3. The description of development on the planning application form relating to the current appeal was unclear as there was no reference to the change of use of the land that would occur as a result. Therefore, following discussion at the hearing and email exchanges afterwards, it was agreed between the main parties that the description of development should read "change of use of land to 3 Traveller pitches with no more than 3 static caravans per pitch".

Main Issues

4. The main issues are:
 - (a) the effect of the proposal on the openness, character and purposes of the Green Belt; and
 - (b) whether any harm would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal, including gypsy and traveller status, the need for and supply of gypsy and traveller sites, and the personal circumstances of the occupiers of the site.

Reasons

Effect on the openness, character and purposes of the Green Belt

5. Paragraph 16 of the Planning Policy for Traveller Sites (PPTS) states that gypsy and traveller sites in the Green Belt are inappropriate development. Paragraph

¹ APP/M1520/A/13/2190216, APP/M1520/C/2190220, APP/M1520/C/13/2190221, APP/M1520/C/13/2190222 and APP/M1520/C/13/2190223

133 of the National Planning Policy Framework (NPPF) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Of the Green Belt purposes listed in NPPF paragraph 134, safeguarding the countryside from encroachment is the most applicable to this proposal. At the hearing it was confirmed that there are no relevant Green Belt policies in the adopted Castle Point Borough Local Plan 1998 (LP) and so I have relied on national policies only.

6. The site is located within the Green Belt. It is surrounded by a number of open fields and paddocks interspersed with residential development and commercial uses. There is a significant amount of boundary planting along Burches Road leading towards the site which continues into Fane Road. Notwithstanding this screening, there are views of structures within large plots, such as mobile homes and container sheds at Oak Farm to the south. Thus, while there is a rural character to this part of the Green Belt, it also contains a variety of built development.
7. The appeal site comprises 3 pitches currently occupied by 4 static caravans with a large amount of hardstanding around each one and green space along the road frontage. The paddock to the rear of the site provides a green buffer to the north, south and east. Due to intervening vegetation and buildings, the site and its existing structures are not seen until the junction of Burches and Fane Roads. Clear views of the structures and the hardstanding are mainly contained to the road frontage past the site.
8. The conditions attached to the 2015 planning permissions limit the number of caravans to 6, of which no more than 3 shall be static caravans or mobile homes. While the conditions restrict any caravan from the paddock area, they do not specify a precise layout plan for the caravans or any hardstanding.
9. The general consensus at the hearing was that the static caravan on the southernmost plot nearest to Fane Road was unauthorised. The Council also considers that the extent of the hardstanding is not authorised and has increased in recent years compared to photographs and aerial images of the site dating from 2012 and earlier. Photographic evidence dating from 2015 appears to indicate that the hardstanding was laid down around 4 years ago, but whether it is immune from enforcement action is not clear.
10. The proposal would result in 2 additional static caravans for each pitch. The layout plan indicates that most of these structures would be located towards the rear of the site, behind the 3 existing authorised static caravans, apart from the existing unauthorised caravan referred to above. The layout plans also denote boundary planting along the road frontage for each pitch. The parties were happy for the layout and landscaping details to be fixed by conditions.
11. The additional caravans would reduce the openness of the Green Belt in a spatial context with a tripling of structures from the authorised position. This would also result in some countryside encroachment. However, they would not be highly visible along Burches or Fane Roads due to existing structures, including the existing authorised caravans, and existing/proposed planting. Where they would be seen in close up views from Fane Road, they would be contained within an existing authorised Traveller site. There would be some domestic paraphernalia, but such items are not likely to be large or visually dominant.

12. The increased extent of hardstanding would create a harder urban character to the site. It would reduce the amount of green space within the site and result in a degree of countryside encroachment. However, this would only be appreciated from the site frontage and within the site itself and so would have little negative effect visually. Spatially, it would have very little effect on openness due to its lack of volume.
13. An increase in static caravans would likely result in an increased number of vehicle movements to and from the site by additional occupants along with extra parking. However, with only 6 extra caravans, occupied by members of an extended family, this is unlikely to be a significant change to the existing amount of movement and parking and so would have very little effect on openness or purposes.
14. The proposal would have some negative effect on openness and Green Belt purposes in terms of the spatial effect of additional static caravans and the countryside encroachment from these caravans and additional hardstanding. However, the proposal would have an acceptable visual effect on openness due to the existing site and existing/proposed screening by structures and vegetation. For similar reasons, it would have an acceptable effect on the character of the area. Therefore, I consider that the degree of harm to Green Belt openness and purposes would be limited.

Other considerations

15. The purpose of the proposal is to accommodate the appellants' adult children and relatives, including their partners and dependant children. At the hearing, the Council confirmed it was satisfied that the intended adult occupants of the proposal met the PPTS definition of gypsies and travellers based on the evidence submitted by the appellants. I see no reason to disagree.
16. The Greater Essex Gypsy and Traveller Accommodation Assessment 2016-2033 (the GTAA) was published in January 2018 by Opinion Research Services (ORS). It was updated in April 2019 for local planning authorities in South Essex. The update for Castle Point identified a need for no additional pitches for households that meet the PPTS definition based on household interviews and other analysis. A need for 2 additional pitches for unknown households was identified in the update. Finally, the update identified a need for 5 additional pitches for households that do not meet the planning definition based on teenage children and household demographics taken from interviews at the appeal site. This need is spread out over 15 years, with 2 pitches needed in 2016-2021, 2 pitches in 2021-2026 and 1 pitch in 2026-2031.
17. At the hearing, the Council's adviser from ORS stated that based on the PPTS compliant gypsy and traveller status of the appellants and the intended occupants, these 5 additional pitches would move into the column of 'additional pitches for households that meet the PPTS definition'. Therefore, while the findings of the GTAA have yet to be taken forward and tested through the plan-making process, it would appear from the evidence before me that there is local need for additional accommodation for gypsy and travellers within Castle Point, specifically in relation to the appeal site.
18. In terms of addressing this need, the emerging Local Plan (eLP) may not be submitted for examination until the summer of 2020 and may not be adopted for 2-3 years. The Council intends to include a criteria-based policy in the eLP

rather than allocate specific sites, although urban extension sites in the eLP would try and integrate gypsy and traveller sites. At the hearing, the Council accepted that it was unable to identify any sites within the borough that could provide a supply of suitable land and that there was no 5 year supply.

19. The appellants at the hearing explained that they have not looked for alternative sites to accommodate their adult children/relatives as they want everyone to live together. Any land outside of urban areas is in Green Belt and as noted above, there is no evidence from the Council of suitable alternative sites. There are at least 8 children of school age or younger and the existing living accommodation at the site is cramped. There is a need for the occupants of the site to access education and health facilities, which is better achieved from a settled base.
20. If this appeal was dismissed, the Council acknowledged that enforcement action against any unauthorised caravan including the fourth static caravan could take place. While up to 3 touring caravans could be used for family members, they would not be very spacious and would also need to be taken off the site from time to time. The appellants stated it would be hard to find other places to live and temporary stopping points would be needed. Moving on would also affect education and health care access, with poor schooling affecting achievement and life chances. As such, there would be an interference with the appellants' home, private and family life if the appeal was dismissed. The Council argued that this would not have a disproportionate effect given the Green Belt impact and the need to protect the public interest.

The overall planning balance

21. NPPF paragraph 144 states that substantial weight should be given to any harm to the Green Belt and that very special circumstances 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. PPTS paragraph 16 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.
22. The proposal represents inappropriate development by definition and would result in limited harm to Green Belt openness and purposes. This carries substantial weight. I note that the 2015 permissions were granted on the basis of improvements to Green Belt openness, but this does not mean that worsening of openness automatically prevents the development gaining permission. Instead, the harm needs to be balanced against other considerations as set out above.
23. The existing authorised use of the land as a Traveller site is already inappropriate development and so the proposal would not add to Green Belt harm by reason of inappropriateness. There is a local need for gypsy and traveller accommodation and the policy approach to meeting this need is some way from being established and adopted through the eLP. No supply or alternative sites have been identified. These considerations carry considerable weight.
24. The proposal would ensure that the current families remain together on an existing site for Travellers. It would avoid the need to try and develop a currently undeveloped or non-gypsy and traveller site in the Green Belt. This

carries significant weight. The proposal would provide stability for dependant children in terms of educational needs along with healthcare access, and would prevent the families from ending up on the road. This carries considerable weight.

25. Cumulatively, the other considerations would clearly outweigh the harm to the Green Belt. Looking at the case as whole, and consciously thinking about the three aims of the Equality Duty, I consider that very special circumstances exist which justify the proposal. Therefore, the proposal would accord with PPTS paragraph 16 and NPPF paragraph 144.
26. At the hearing, the Council indicated that a temporary planning permission could be possible as it would be time limited and lessen the interference with the appellants' human rights while protecting the public interest. However, there is no certainty as to when the eLP will be adopted and whether it would make provision for local need and the needs of the appellants and their families. Moreover, a temporary permission would not provide the long-term stability for the families and their children. It could also prove complicated in terms of the effect on the existing permanent personal permission for a Traveller site. In any case, a permanent personal permission would be acceptable based on the above balancing exercise. Therefore, I have not considered a temporary permission any further.

Other Matters

27. Due to the existing and proposed levels of screening and distance to nearest properties, the proposal would have little effect on the living conditions of neighbouring residents in terms of outlook or privacy. I saw little evidence of significant lighting on site to suggest that there would be unacceptable adverse effects at night. While there is a risk of damage to vegetation and wildlife from caravans entering or leaving the site, the approach roads are not overly narrow and it will depend on the size of structures and how carefully they are driven. I have little evidence that traffic movements would cause a significant effect on other users of the roads or result in excessive noise levels. The Council has not identified any conflict with LP Policies EC20 or T7 which relate to landscape improvement areas and unmade roads respectively. I see no reason to disagree.
28. While there appears to be a business registered to the site address, there is little to suggest that commercial activities operate out of the site. Effects on property values are not a planning matter. Concerns that the proposal would set a precedent for further traveller sites nearby are noted, but each case would need to be treated on its own merits. Claims that non-travellers will become a minority on the road have no substance or reasoning as to why this would have a negative effect.

Conditions

29. Condition 1 specifying the time limit for implementing the decision is necessary for clarity. As the need for gypsy and traveller pitches has been a key part of my decision, Condition 2 is necessary to ensure all occupiers fall within the definition contained in the PPTS. The personal circumstances of the appellants and the intended occupants of the site has also been a key consideration and so Condition 3 is required to name the leading members of each pitch.

Conditions 4 and 5 are necessary in the interests of character and appearance in terms of the number and position of caravans within the site.

30. Condition 6 is necessary as the permission is personal one and ultimately temporary, requiring the removal of the caravans and any associated structure once the site is vacated by those named in Condition 3. Conditions 7 and 8 are necessary to ensure no heavy lorries on site or the storage of materials associated with commercial activities, which would have negative effects on the surrounding area. Finally, Condition 9 is necessary to ensure that a landscaping scheme is secured and implemented to provide adequate mitigation.

Conclusion

31. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANTS

Joseph G Jones	BFSGC
Michael McCarthy	Appellant
Miles McCarthy	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Keith Zammit	Castle Point Borough Council
Robert Davis	Castle Point Borough Council
Steve Jarman	Opinion Research Services

DOCUMENTS SUBMITTED AT THE HEARING

1. Essex, Southend-on-Sea and Thurrock Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Summary 2016-2033 (dated January 2018), submitted by the local planning authority.
2. Essex, Southend-on-Sea and Thurrock Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Joint Methodology (dated January 2018), submitted by the local planning authority.

3. Castle Point Borough Council Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Need Summary Report (dated September 2017), submitted by the local planning authority.
4. South Essex Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Update 2016-2038 (dated April 2019), submitted by the local planning authority.
5. Aerial photographs of the appeal site dated between 1992 and 2010, submitted by the local planning authority.
6. Photographs of the appeal site dated 2 July 2012 and 28 August 2012, submitted by the local planning authority.
7. Photographs of the appeal site dated 16 September 2015, submitted by the local planning authority.
8. Letter dated 17 September 2015 from the local planning authority to the appellants' previous planning agent, regarding the hard surfacing works on the site, submitted by the appellants.
9. Information from the Gypsy Council dated August 2019 in relation to the gypsy and traveller status of the appellants, submitted by the appellants.
10. Note from Blaby District Council regarding 'unknown' households relating to gypsies, travellers and travelling showpeople, submitted by the appellants.
11. Appellants' closing submissions, submitted by the appellants.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Email from Joseph G Jones confirming the names of the intended occupants of the development, submitted by the appellants.