



Appeal Decision

Hearing Held on 21 January 2020

Site visit made on 21 January 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/B1930/W/19/3233651

**Tullochside Farm, Hemel Hempstead Road, Redbourn, Hertfordshire
AL3 7AJ**

- 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 Ned Stanley of Cougar Construction Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/18/2725, dated 5 October 2018, was refused by notice dated 23 January 2019.
 - The development proposed is change of use of land to use as a residential caravan site for 5 gypsy families, each with two caravans of which no more than one shall be a static caravan/mobile home, together with the laying of hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to use as a residential caravan site for 5 gypsy families, each with two caravans of which no more than one shall be a static caravan/mobile home, together with the laying of hardstanding at Tullochside Farm, Hemel Hempstead Road, Redbourn, Hertfordshire AL3 7AJ in accordance with the terms of the application, Ref 5/18/2725, dated 5 October 2018, subject to the conditions set out in the Schedule at the end of this decision.

Procedural Matter

2. The address of the appeal site is taken from the Council's decision notice and subsequent appeal documents, as this more accurately reflects the location of the site.

Main Issues

3. The appeal site is within the Green Belt. It is common ground that the proposal would be inappropriate development within the Green Belt under the terms of the National Planning Policy Framework (the Framework). On that basis, the main issues in this appeal are:
 - The effect of the development on the openness of the Green Belt and on the purposes of including land within it;
 - The effect on the character and appearance of the area; and

- Whether the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Openness and Green Belt Purposes

4. The appeal site is part of an open field adjacent to an existing caravan site occupied by gypsies and travellers. Although there is sporadic development in the area, including a number of dwellings, the site is set within an area of countryside. The appeal proposal would extend the site further to the south which would increase the extent of activity, including the introduction of further caravans and associated paraphernalia. However, the proposal would be viewed within the context established by the existing site and would not appear as an obtrusive extension of existing development in the area.
5. Due to the increase in the extent of development the proposal would harm the openness of the Green Belt. However, due to the limited scale of the development and its setting, I consider that the harm to openness would be limited. For the same reasons, with regards to the Green Belt purposes, whilst the proposal would represent encroachment into the countryside harm in this respect would also be limited.

Character and Appearance

6. Notwithstanding the existing caravan site and nearby built development, the appeal site is set within an area of countryside with an attractive rural character. The existing site is visible from the surrounding area including from the busy highway of the B487. However, the existing site is well screened by a high fence and mature landscaping, and it does not appear as an obtrusive or unsightly feature within the landscape.
7. The proposal would increase the extent of the site into an open field to the south. However, a significant area of the field would be retained which would separate the site from the B487. Views from the surrounding area would be limited to near views, and the appeal proposal would also be seen within the context of the existing site. With the use of appropriate means of enclosure and landscaping, I consider that the site would not lead to undue harm to the character and appearance of the area, particularly once the landscaping matures.

Other Considerations

8. In respect of the **need and supply of sites**, subsequent to making its decision the Council published an updated Gypsy and Traveller Accommodation Assessment (GTAA)¹. This identified a need for 72 permanent gypsy and traveller pitches over the period to 2036, with 44 of those being required by 2023. The Council accepts that there is a need for permanent residential sites for gypsies and travellers and that limited progress has been made towards meeting that need. The proposal would contribute to meeting that need. It is also common ground that there are no vacancies on existing publicly provided sites in the district and no unbuilt sites available.

¹ St Albans City & District Council Gypsy and Traveller Accommodation Assessment (GTAA) Update Final Report January 2019.

9. The appellant submits that there has been a longstanding **failure of planning policy** on behalf of the Council to meet an identified need for gypsy and traveller sites. The appellant emphasised at the Hearing that this dates back to at least 2006² where the Council has failed to allocate sites and a number have subsequently been allowed on appeal.
10. Reference has been made to an emerging Local Plan which has been submitted for examination³, and in particular Policy L7 which sets out the Council's approach to considering proposals for gypsy and traveller sites. However, the emerging Local Plan only indicates a number of broad locations for these sites and this is still undergoing examination. Furthermore, the emerging Plan does not include specific site allocations. Sites would be brought forward through a further masterplanning exercise following the adoption of the emerging Local Plan. There is therefore no certainty as to the timescale for allocating Gypsy and Traveller sites. Even then the number of sites indicated in Policy L7 of the emerging Local Plan does not meet the need as identified in the GTAA. To my mind this represents a clear and consistent failure of planning policy to address the need for gypsy and traveller sites - a failure which is likely to persist for some time into the future. Within that context, I give the benefits arising from the proposal in respect of meeting need substantial weight in favour of the appeal.
11. At the hearing, the **personal circumstances** of a number of residents at the existing site was described to me. However, it has not been proposed that the site should be considered on the basis of a personal permission either by the Council or the appellants. The personal circumstances of particular individuals or families does not therefore weigh in favour of the proposal.
12. That said, it is clear that there are established families on the existing site and the GTAA refers to 4 concealed households on the site. Reference has also been made to **overcrowding** at existing sites in the area and the issues arising from that, including concealed households and families doubling-up on plots. Overcrowding was apparent on the existing site at the time of my site visit. Whilst the need arising from the overcrowding is a factor accounted for in the first 'other consideration', there is a human dimension to overcrowding. The expansion of the site would be likely to reduce harm arising from overcrowding as there is a significant possibility that at least some of the occupants of the proposal would be members of families of the existing site. This would have associated benefits in respect of mutual support, including the best interests of children. As a whole, I give this issue substantial weight in favour of the proposal.
13. In respect of **sustainability of location**, the site is located outside of the settlements of Redbourn and Hemel Hempstead but not a significant distance away from them. I saw that facilities including a primary school, supermarket and medical centre could be accessed via a country lane, and whilst this lane was unlit and had no designated footpath the journey would be relatively short. There was also a bus stop to the front of the site which provided access to services in the wider area. Due to the relative convenience of the modes of access available to residents, I consider that they would continue to rely on the private vehicle for many journeys. However, journeys to access services would

² Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites stated that local authorities must allocate sufficient sites for gypsies and travellers.

³ St Albans City and District Strategic Local Plan 2020 – 2036 (Submission Draft 2018)

be relatively short, and mindful of the alternatives available to residents, the sustainability of the location is neutral in the overall planning balance.

Conditions

14. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. As a result, I have amended some of the conditions for clarity.
15. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty.
16. Given the nature of the application and my findings in respect of the need for gypsy and traveller accommodation, I have imposed a condition limiting the occupation of the site to gypsies and travellers. The scale of development should be restricted in the interests of the appearance of the area and minimising the effect on the Green Belt.
17. To safeguard the living conditions of residents of the site and surrounding area, conditions are necessary to prohibit commercial activities, the storage of materials and the use of large vehicles at the site.
18. In the interests of the appearance of the site and minimising the impact on the Green Belt, landscaping works including hard and soft landscaping, means of enclosure and lighting as well as other features need to be approved and implemented in accordance with submitted details. Landscaping details should be submitted and approved at the pre-commencement stage to ensure that they can be incorporated in the preparation of the site at an early stage.
19. A contamination condition was recommended by a consultee to the original application. Whilst the appellant questions whether there has been waste disposal operations on the land, the Council has referred to records which indicate that the appeal site forms part of a historical landfill operation and also refers to other historical contamination risks in the surrounding area. Based on the submitted evidence and taking a precautionary approach, a condition to deal with contamination is required to ensure that risks to residents and property are minimised. These details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to details which need to be established before the commencement of site preparation operations.
20. As discussed at the Hearing, a condition requiring the submission of a scheme of sewage and surface water disposal is appropriate in the interests of proper site drainage and the living conditions of residents. These details should be submitted and approved at the pre-commencement stage so that all appropriate drainage and sewerage measures can be assessed at an early stage and none ruled out by ground works or associated infrastructure.
21. A temporary condition for a period of 3 years has been suggested by the Council. This would enable progress to be made towards allocating sites as part of the emerging development plan and for the appeal site to be reconsidered in the future. However, there is a significant degree of uncertainty as to the timescale for the allocation of sites and whether this

would meet the identified need. The proposal would contribute to meeting need and I am mindful that emerging Policy L7 refers to the potential to extend existing sites. Even though that policy should carry no more than limited weight, this does indicate the Council's approach in respect of the assessing proposals for Gypsy and Traveller sites. I also consider that benefits of mutual support with regards to families on the existing and proposed sites would be likely to endure beyond a temporary period. Within that context, I consider that a temporary planning permission would not be appropriate.

Planning Balance and Conclusion

22. The proposal would be inappropriate development within the Green Belt. I have concluded that the proposal would cause limited harm to Green Belt openness and purposes as well as character and appearance. Inappropriate development is, by definition, harmful to the Green Belt. The Framework requires that substantial weight should be given to any Green Belt harm.
23. However, there are a number of other considerations that weigh in favour of the proposal. In respect of need, the Planning Policy for Traveller Sites 2015 (PPTS) emphasises that subject to the best interests of the child, unmet need is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. The contribution of the appeal proposal to unmet need on its own merits is not sufficient to represent the 'very special circumstances'. However, when viewed in combination with other factors including the contribution of the proposal to addressing the failure of planning policy, overcrowding and the evidence in respect of concealed households on the existing site, these considerations as a whole should be given substantial weight in favour of the appeal proposal.
24. Drawing the above together, I conclude that the harm to the Green Belt and any other harm is clearly outweighed by the other considerations identified above. These considerations are of sufficient weight to represent the very special circumstances necessary to justify this development in the Green Belt. The proposal would therefore not conflict with Policy 1 of the District Local Plan Review 1994 in respect of development in the Green Belt and consideration of very special circumstances. On the same basis the proposal would also not conflict with the Framework and the PPTS. The proposal would not be contrary to Policy L7 of the emerging Local Plan in that it would be a suitable extension of an existing site and it has not been demonstrated that there are locations available of a higher order of priority.
25. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

Appearances

FOR THE APPELLANT:

Philip Brown
Ned Stanley

Philip Brown Associates
Appellant

FOR THE COUNCIL:

Nigel Ozier
Lesley Young

Aitcheson Raffety
St Albans City & District Council

INTERESTED PERSONS:

Cllr Maria Maynard	Redbourn Parish Council
Cllr Dennis Bigham	"
Cllr Victoria Mead	"

Documents Submitted at the Hearing

1. Policies S6, L6 & L7 and Key Diagram of the draft St Albans City & District Local Plan 2020-2036
2. Statement of Common Ground
3. Appeal Decision Ref: APP/B1930/W/18/3212960

Documents Received Following the Hearing (by request of the Inspector)

4. Comments of the Council's Environmental Protection Officer.
5. Appellant's agreement to the pre-commencement conditions proposed by the Inspector.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Layout Plan and Fence Detail.
- 3) 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).
- 4) There shall be no more than 5 pitches on the site and on each of the pitches hereby approved no more than 2 caravans shall be stationed at any time, of which no more than 1 caravan shall be a static caravan or mobile home.
- 5) No commercial activities shall take place on the land, including the storage of materials and the stationing of any vehicle over 3.5 tonnes.
- 6) No development shall take place until full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:
 - a) Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
 - b) means of enclosure and boundary treatments;
 - c) vehicle parking layouts;

- d) other vehicle and pedestrian access and circulation areas;
- e) hard surfacing materials;
- f) external lighting;
- g) the retention and protection measures in respect of existing trees, hedgerows and planting as shown on the Site Layout Plan;
- h) an implementation programme;
- i) a landscape management plan, including management responsibilities and maintenance schedules.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is occupied in accordance with the agreed implementation programme. The landscape management plan shall be carried out as approved.

- 7) If within a period of five years from the date of the planting of any tree or plant included within the landscape works, that tree or plant, or any tree or plant planted in replacement for it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless otherwise the Local Planning Authority gives its written consent to any variation. The tree or plant shall be planted within three months of felling/dying or if this period does not fall within the planting season by 31 January next.
- 8) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 9) No development shall take place until details of works for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall not be occupied until the sewage disposal and drainage works shall have been completed in accordance with the submitted and approved details.

End of Schedule