



Appeal Decision

Hearing Held on 11 March 2020

Site visit made on 11 March 2020

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 31st March 2020

Appeal Ref: APP/Q4625/W/19/3235301

Land to the north west side of Church Lane, Bickenhill, Solihull B92 0DS

- 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 Thomas Connors against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2018/03166/PPFL, dated 12 November 2018, was refused by notice dated 14 February 2019.
 - The development proposed is the demolition and removal of existing buildings and structures and the use of land for the stationing of caravans for residential purposes.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition and removal of existing buildings and structures and the use of land for the stationing of caravans for residential purposes at land to the north west side of Church Lane, Bickenhill, Solihull B92 0DS, in accordance with the terms of the application, Ref PL/2018/03166/PPFL, dated 12 November 2018, subject to the conditions set out in the attached schedule.

Main Issues

2. A Statement of Common Ground between the appellant and the Council sets out the matters that are agreed and those that are disputed. The site lies in the West Midlands Green Belt. The main parties agree that the proposal is inappropriate development in the Green Belt as set out in paragraph 16 of 'Planning policy for traveller sites' (PPTS).
3. It is also accepted that the appellant meets the definition of 'gypsies and travellers' within the Glossary to PPTS. Based on the information before me I see no reason to take a different view. Therefore, PPTS, which sets out the Government's policy for traveller sites applies, as do development plan policies relevant to gypsies and travellers.
4. Taking into account the above, the main issues are:
 - (1) the effect on Green Belt openness and purposes;
 - (2) the effect on the character and appearance of the area;
 - (3) whether the traveller site would be sustainable having regard to national and local policies; and,
 - (4) 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 required to justify the development.

Reasons

Green Belt openness and purposes

5. The site includes a long access track which hugs the south-west and north-west boundaries of a field leading to an area of hardstanding, two stable buildings and some smaller metal structures sandwiched between the stables. Although the timber stable building and the metal structures would be removed, the development would lead to a modest increase in the quantum of development on the site through the extension of the hardstanding, the stationing of static and touring caravans and the erection of a day room building.
6. The site has not been in use for a couple of years. However, the existing buildings could be reused for the stabling of horses anytime. This would increase activity on the site through comings and goings, the parking of vehicles and the presence of people and animals. In comparison residential occupation would also lead to more activity than presently and that activity would be likely to be more constant than if the stabling use was to resume.
7. Openness has a visual as well as a spatial dimension. The pitch would be some distance from Church Lane and would be screened to an extent by existing trees and hedgerows alongside the lane. Views from the public footpath that runs along Pitt Lane would be limited to the initial stretch by the pond because further north Blythe Cottage and its enclosed garden screen the appeal site. Planting is proposed enclosing the open boundaries of the pitch. Additional landscaping, including trees and hedgerow plants, could be carried out in the field and on the lane boundary. However, although not prominent, the structures and building on the pitch would still be visible in glimpsed views from the lane and footpath, including through the gateway.
8. There would be some encroachment into the countryside through the extension of the hardstanding and the placing of the caravans and day room on or adjacent to it. However, the scale of development is limited and so is the extent of encroachment.
9. All in all, the development would lead to some loss of openness and a limited adverse impact on the Green Belt purpose of safeguarding the countryside from encroachment.

Character and appearance

10. Church Lane runs north-east from the small village of Bickenhill towards the A45 and mainline railway, with undulating arable fields and grassed paddocks to either side. The village's loose knit character, the closeness of the Parish Church, and fields adjacent and near to the appeal site give the immediate area a predominantly rural character. That said the proximity of the airport, major roads and large building complexes also exert urban influences on the area. In particular aircraft and road traffic noise were evident when I visited the site. Buildings forming part of the National Exhibition Centre (NEC) are seen as a backdrop to views when looking north-east across the site from the entrance.
11. The creation of the pitch from a small part of two fields and the stationing of the caravans would introduce a new element into the rural scene to the east of Bickenhill. However, there is an acceptance in national and local policy that many traveller sites will be located in the countryside. Although not an existing

characteristic of the village and its immediate environs, caravans can be seen in the wider rural area between the A45 and villages of Catherine de Barnes and Hampden in Arden to the south. Therefore, although not vernacular in character, caravans are not an alien feature in the overall rural landscape. But neither are they a dominant characteristic.

12. The structures would be some distance from Church Lane and the short section of the Pitt Lane public footpath from where the pitch would be visible. Moreover, existing and proposed trees and hedges would soften the appearance of the caravans and day room, particularly in the summer months when vegetation would be in leaf.
13. In conclusion, there would be some localised harm to the character and appearance of the area, but that harm would be limited because of the proximity of major infrastructure, the scale and siting of the development, and the ability of existing and proposed landscaping to mitigate the impact of the development. Policy P6 of the Solihull Local Plan¹ (SLP) is the most important policy for determining the appeal as it is specific to the provision of sites for gypsies and travellers. For the reasons given above, any unacceptable adverse visual or landscape impact would be minimised and mitigated so in respect of this issue there would be compliance with Policy P6.

Sustainable site

14. The site is in open countryside but adjacent to Bickenhill and close to the urban development at the NEC so there is no conflict with the Government policy of very strictly limiting new traveller sites in open countryside that is away from existing settlements.
15. Bickenhill has limited services, although the church hall and village recreation area are very close to the site. A greater range of facilities are available in the villages of Catherine de Barnes and Hampden in Arden, a few miles to the south with both providing a small shop and pub. The latter also includes a primary school, the nearest to the site. A wider range of facilities are available in the urban area of Solihull further away to the west, including health services, secondary schools and shopping.
16. Walking to the nearest villages and Solihull is not really an option because of the distance. Cycling to the villages would be feasible, particularly as a cycleway runs along the B4438 passing close to Bickenhill. Shadowbrook Lane provides a relatively quiet link from the B road to Hampden in Arden. I was told that the nearest bus service is in Catherine de Barnes. However, I note that there is a bus interchange at Birmingham International Railway Station where there are also train connections to many parts of the country. The station is about a mile to the north.
17. It would be possible to walk to Birmingham International and the petrol station and associated shop on the A45 which are closer to the site. However, the route is not straightforward, involving some stretches of road without footways and the crossing of at least two busy slip roads. Even using the more direct route via the field path from the end of Pitt Lane would not avoid some of the hazards.

¹ Solihull Local Plan: Shaping a Sustainable Future (adopted December 2013)

18. Despite the existence of some walking and cycling routes to the nearest settlements and public transport, most journeys, including shopping trips and visits to the school, doctors or hospital, are likely to be undertaken by private vehicle. However, trips to access facilities would not be long and would be commonplace from a village such as Bickenhill. The location, in terms of accessibility, is comparable to some of the other traveller sites allocated or granted planning permission nearby in recent years such as The Haven, Old Damson Lane and Shadowbrook Lane. Considering matters in the round, the site is suitably located.
19. Moreover, accessibility of local services, including by different modes of travel, is only one aspect of sustainability. Paragraph 13 of PPTS recognises that whether traveller sites are sustainable should be considered in the round taking into account economic, social and environmental dimensions.
20. There is no reason why the site occupants could not exist peacefully and integrate with the local community. There is nothing that I saw or heard at the hearing that made me doubtful in this respect. A settled base would allow the residents access to health services and for the younger children to attend school regularly. Being on the site would reduce the family's need for long-distance travelling and encampments by the roadside which can lead to tensions between the settled and traveller communities and the potential for anti-social behaviour. There is no evidence that there would be pressure on local infrastructure or services. The site would allow the appellant to live and travel for work from the same location. It would also provide the paddocks for his two horses, so preventing the need to travel from one location to another to care for the animals.
21. The site is not in an area at high risk of flooding. There is no evidence before me that the proximity of the site to the major roads, the railway and airport would lead to an unacceptable living environment by reason of noise or air quality. The vehicular access to the site has acceptable visibility. The site is served by an adequate highway network, taking into account that the proposal is for a single-family pitch.
22. Criterion vii. of Policy P6 of the SLP would be met overall as local facilities are accessible to an extent by walking and cycling and the site would be sustainable in other ways. Policy P7 is also relevant. The policy includes exemptions from the accessibility criteria for a small number of dwellings within rural settlements. To my mind the proposal equates to this type of development. Therefore, there would be no conflict with Policy P7.
23. Accordingly, the traveller site would be sustainable taking into account local and national policies. Having regard to sustainability in the round, the proposal would be beneficial.

Other considerations

Need for and provision of sites

24. The Council commissioned a Gypsy and Traveller Accommodation Assessment (GTAA) to inform the SLP. The GTAA, published in February 2012, identified a need for 38 permanent residential pitches to 2027. This need is set out in Policy P6. The Inspector who examined the SLP endorsed the GTAA. In the

most recent traveller appeals in Solihull², the Inspector found that need issues raised in those appeals were not down to any fundamental flaws or clear deficiencies of the GTAA. The GTAA was a robust piece of work and this appeal is not the place to redo it.

25. That said things have moved on since 2012. The GTAA noted that the pitch requirements for 2017-2022 and 2022-2027 should be seen as indicative due to the reliance on household growth figures. Primarily because of this factor, the GTAA recommended that the assessment be repeated in about 5 years' time. No updated GTAA has been published, although one is currently being worked on as part of the evidence base for the SLP Review.
26. The 2017 appeal decisions picked up a greater number of households' resident at the Shadowbrook Lane sites than had been accounted for by the GTAA. Information from the 2011 Census suggests that there may be more traveller households in 'bricks and mortar' than assumed by the GTAA.
27. Overall, the current need is likely to be moderately higher than anticipated by the 2012 GTAA, although it would be premature to pick a precise figure pending the publication of the new GTAA. Moreover, there remains a need nationally, regionally and more locally for traveller pitches, perhaps emphasised by the appellant's search for a site.
28. In terms of provision, commendably, on the back of Policy P6, the Council produced the Gypsy and Traveller Site Allocations Plan (SAP) soon after the SLP. The SAP was adopted in December 2014, allocating some 31 pitches of which 21 were anticipated to be delivered in Phase 1 (up to 2017) and 10 in Phase 2 (between 2017-2027). In addition, Policy P6 allows for any unmet need to be met through the planning application process, including the type of small private site proposed in this appeal.
29. Since the 2012 base date of the SLP, some 35 pitches have been granted planning permission of which 23 are on allocations. Most of these pitches have been implemented. This meets the GTAA identified need for 2012-2017 of 26 pitches and the 2017-2022 identified need for 6 pitches. However, as noted above, the latter figure is indicative as is the 6 pitch need for the 2022-2027 period.
30. Pitches at the allocated sites of Old Damson Lane (2) and The Haven (6) remain to be developed. I was not made aware of any constraints affecting the former site and there is a good track record of bringing pitches forward, so that site can be considered deliverable. There is no planning permission at The Haven and the site is affected by the proposed road link between the A45 and a new southern junction 6 of the M42. Although the preferred route for these improvements has now been determined and the allocation remains developable, the access to site will require some reconfiguration. Based on the evidence before me, the site cannot be considered deliverable.
31. Overall, taking into account the above, the need is now likely to be greater than identified in 2012. Although the 2 pitches that are deliverable will potentially meet some of the remaining need up to 2027 and contribute to the 5-year supply of pitches, there is still likely to be a marginal shortfall in supply. For these reasons, and like the Inspector at the Shadowbrook Lane appeal, I

² Shadowbrook Lane appeal decisions ref: APP/Q4625/C/13/2209742, 2209777 & 2209776 dated 1 February 2017

am unable to conclude that there is a sufficient supply to provide 5 years' worth of sites. The appeal site would assist in making up the shortfall in sites and would also complement other provision by bringing forward a single pitch development for one family.

32. The delay in producing a new GTAA does not amount to a failure of policy. The Council has sought to identify and meet the need for the plan period (2012-2027). Whilst it would have been desirable to produce a new GTAA by now, the Council is currently reviewing the need with a view to updating Policy P6 and making any additional allocations that are necessary. Any failings have certainly not been persistent.

Alternative sites

33. The Council was unable to point to any alternative pitches that are currently available. For reasons explained above, planned pitches at The Haven are not available. It is understood that pitches at Old Damson Lane are managed by a registered social landlord. Reference was made to a waiting list operating. Although the appellant had not made enquiries about the availability of pitches, there was no evidence before me that a pitch was available. No evidence was provided that other pitches, either within the Borough or beyond, were available to the appellant and his family.
34. All land outside the defined boundaries of the urban area, a number of specific settlements and major developments sites such as the NEC is defined as Green Belt. In other words, all the rural area of the Borough is Green Belt. All the sites allocated in the SAP were in the Green Belt. The Council accepted that any additional sites that come forward, either through allocations or permissions, are highly likely to involve Green Belt land.

Personal circumstances

35. The appellant, his wife and 4 children have travelled for a number of years, doubling up on authorised sites occupied by family and friends, staying on the side of the road and renting land for short periods. The appellant travels to obtain work and most of the time has to take his family with him.
36. Because of these circumstances, the children have been unable to attend school on a regular basis, relying primarily on some home tutoring. Access to health care has also been disrupted, even though the family are now registered with a doctor in Solihull.
37. There would be advantages for the general well-being and state of mind of the parents in being finally settled and being able to provide a stable home, access to basic amenities and a secure living environment for their children. If the parents are content this would make the children's life much happier.
38. A settled base would allow the 3 children of school and pre-school age to attend local schools and all of the family to access health care more easily. The benefits of a settled base are well-documented in terms of education and access to health care.
39. In particular having a settled base would be in the best interests of the children. In stark contrast the alternative of an itinerant life would be damaging to the education, health and well-being of the families. Continuing

to move from place to place and living by the side of the road would be a likely consequence of dismissing the appeal.

Other matters

40. The application indicates that foul water drainage would be taken to a package sewage treatment plant and surface water to soakaways. Reference was made at the hearing to issues with surface water flooding, overflowing local drainage ditches and clay soils preventing run-off from soaking away. However, a number of potential drainage options could be used. There is sufficient land within the control of the appellant such that acceptable drainage solutions should be available, including ensuring that any run-off was at greenfield rates and did not exacerbate any localised flooding issues. A condition would be required to ensure that drainage details are agreed.
41. The activity from a single pitch occupied by one family would not lead to undue noise and disturbance for existing nearby residents. The neighbouring property, Blythe Cottage, and its garden is well-screened from the pitch and the access track by evergreen boundary planting so a reasonable degree of privacy would be maintained.

Planning Balance, Conditions and Conclusion

Planning Balance

42. The National Planning Policy Framework (the Framework) requires that substantial weight is given to any harm to the Green Belt. 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.
43. The proposal would represent inappropriate development and would also have a moderate effect on openness and a limited effect on one of the purposes of the Green Belt. The harms by reasons of inappropriate development, loss of openness and effect on a Green Belt purpose together attract slightly more than substantial weight. Unlike the recent appeal decision at Catherine De Barnes³, where the Inspector was considering a significant scale of built development, these three harms do not equate to three lots of substantial harm. There would also be some limited harm to the character and appearance of the area. I have found no other specific material harm from the development.
44. In terms of benefits, the site would be sustainable which attracts moderate weight. In terms of other factors in favour, moderate weight should be afforded to the combination of factors related to the need and provision of sites – the greater current need than anticipated by the 2012 GTAA and the likely modest shortfall in provision against that need going forward. The fact that any additional sites are highly likely to be in the Green Belt also weighs significantly in favour of the development. The lack of alternative sites for the particular family should attract significant weight.
45. The personal circumstances of the family are a consideration which should be afforded substantial weight in the planning balance taking into account the time they have been travelling without a settled base. Such a base would have

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significant benefits for the well-being and health care provision of the family as a whole and for the education of the children of school and pre-school age. The best interests of the children, which is a primary consideration, and the families' right to a home, would be served by a permission.

46. Overall, my conclusions are that the harm to the Green Belt and the character and appearance of the area would be clearly outweighed by the site being sustainable, the need and provision factors, the fact that additional sites are likely to be in the Green Belt, the lack of alternative sites and the personal circumstances. These other considerations, taken together, are sufficient to constitute the very special circumstances necessary to justify a permanent permission.
47. PPTS makes it clear that 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. In this case unmet need is not a substantial factor in favour. But the other considerations in favour go beyond the need issue and personal circumstances.
48. In terms of the development plan, the most important policy for determining the appeal is Policy P6 of the SLP. The proposal would perform reasonably well against Criteria ii. and vii. and the undisputed criteria. The site would meet the unmet need from the appellant's family. Moreover, it is acknowledged that there are no other locations in the Borough beyond the Green Belt and very special circumstances have been demonstrated. Therefore, there is compliance with Policy P6. For the same reasons the proposal would also comply with Policy P17. I have not found any material conflict with other policies of the development plan. The proposal would accord with the development plan.

Conditions

49. In granting planning permission, in addition to the standard time limit on commencement, a condition should be imposed to require compliance with the approved plans for certainty. The plans condition should make it clear that the buildings shown to be demolished should be removed to tie in with the occupation of the pitch.
50. A condition limiting occupation to the particular family is necessary as personal circumstances have been a decisive factor in granting planning permission. There is no need for an additional condition limiting occupation to those who meet the definition of travellers within PPTS as the appellant's status is not in doubt. Once occupation by the family ends the site would need restoration which should also be required by condition.
51. The provision of soft landscaping together with its ongoing maintenance, and limitations on the number of caravans and commercial vehicles are required in the interests of Green Belt openness and the character and appearance of the area. Controls on commercial activities, including storage, are needed for similar reasons but also to protect the living conditions of nearby residents. The quality of the existing and proposed landscaping would be ruined if the site was to be enclosed by fencing or walls. The landscaping condition should control such additional features.
52. Drainage should be controlled by condition to prevent pollution or surface water flooding occurring (paragraph 40 refers). Details of the external

materials of the day room are required in the interests of the character and appearance of the area. Providing such details prior to above ground works on the building would be reasonable.

53. A landscaping scheme needs to be agreed prior to commencement of the development as it will form an integral part of the scheme. This requirement has been agreed in writing by the appellant.

Conclusion

54. For the reasons given above I conclude that the appeal should be allowed subject to the conditions discussed above and set out in the attached schedule.

Mark Dakeyne

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 Drawing No 18_933_001; Proposed Site Plan Drawing No 18_933_003; Proposed Utility/Day Room Drawing No 18_933_005. The buildings shown to be demolished on the Proposed Site Plan shall be removed prior to the occupation of the caravans.
- 3) The occupation of the site hereby permitted shall be carried on only by Mr Thomas Connors and Mrs Sarah Connors and their resident dependants.
- 4) When the land ceases to be occupied by those named in condition no 3 above, the mobile home, touring caravan, day room, structures, materials and equipment brought onto the land or works undertaken in connection with the use shall be removed and the land restored to its condition before the development took place.
- 5) No development shall commence until a scheme of hard and soft landscaping has been submitted to, and approved in writing by, the local planning authority. The scheme 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; a schedule of landscape maintenance for a period of 5 years following initial planting; indications of all existing trees and hedgerows on the land, identifying those to be retained; and measures for the protection of all existing trees and hedgerows throughout the course of development. Upon implementation of the approved scheme of landscaping, no hardstandings or means of enclosure other than those forming part of the approved scheme shall be constructed or erected on the site.
- 6) If within a period of 5 years from the implementation of the soft landscaping, any trees or plants which formed part of the approved landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 7) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be

stationed on the site of which no more than 1 shall be a static caravan or mobile home.

- 7) No more than one commercial vehicle shall be stationed, parked or stored on the site. The vehicle shall not exceed 3.5 tonnes in unloaded weight. No other commercial vehicles shall be kept on the land.
- 8) No commercial activities, including the storage of materials, shall take place on the land, other than the storage of materials in the commercial vehicle authorised to be parked on the site.
- 9) The caravans shall not be occupied until drainage works for the disposal of foul and surface water have been carried out in accordance with details which shall have been submitted to, and approved in writing by, the local planning authority.
- 10) No above ground works shall be carried out on the utility/day room until details of the external wall and roof materials have been submitted to, and approved in writing by, the local planning authority. The building shall be constructed in accordance with the approved details.

APPEARANCES

Matthew Green	Director, Green Planning Studio Limited
Thomas Connors	Appellant
Sarah Connors	Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

John Hallam	Planning Officer
Rebecca Hadley	Planning Officer
Emma Tinsley-Evans	Planning Officer

INTERESTED PERSONS:

Jonathan Horton	Local resident
Mrs Woodcock	Local resident
Michael Kay	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

DOC 1 - Signed and dated Statement of Common Ground

DOC 2 - Signed and dated witness statement of Thomas Connors

DOC 3 – Appeal decision ref: APP/Q4625/W/19/3237206 dated 14 February 2020