
Appeal Decision

Site visit made on 12 October 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Appeal Ref: APP/N0410/W/20/3244183

**Land at Templewood Road, Farnham Common, Stoke Poges, Slough
SL2 3HF**

- 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 Peter Grimble against the decision of Buckinghamshire Council.
 - The application Ref PL/18/3787/OA, dated 27 September 2018, was refused by notice dated 5 July 2019.
 - The development proposed is described by the appellant as 'Use of land. Intensification of existing use for siting of 1 caravan up to a total of 8 pitches for siting gypsy/traveller as per attached site plan'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the decision was issued South Bucks District Council has merged with several other local authorities to become Buckinghamshire Council. Any reference I make to 'the Council' is therefore to Buckinghamshire Council. The merger has not had any bearing on what currently constitutes the statutory development plan in the former South Bucks District Council area.
3. The application is for the change of use of land and was made in outline with all matters reserved for future consideration. It was registered by the Council on this basis. However, the Development Management Procedure Order¹ states that an outline planning permission means a planning permission for the erection of a building. Accordingly, the application should not have been submitted and registered in outline.
4. Due to the outline nature of the proposal the Council confined its assessment to the principle of development. This was an unnecessarily constrained approach as the Council would have been able to broadly consider other matters, such as the effect on the character and appearance of the area, biodiversity and highway safety, even though the proposal was made in outline. These were all points put to the Council by interested parties. In effect, the Council has prejudiced itself by mistakenly registering the application and then unduly narrowing the scope of the matters it considered.

¹ The Town and Country Planning (Development Management Procedure) (England) Order 2015

5. Interested parties, who may not be familiar with the planning system, may have held back on making comments on detailed matters, such as the layout of the proposal, due to its outline nature. This is because they could have understandably thought such matters would be dealt with through subsequent submissions setting out the reserved matters. Therefore, they could be prejudiced if I were to consider the proposal as a full submission. However, having read through the representations it is apparent that interested parties did not generally limit their comments in this way and the appellant has responded to their concerns in his submissions. As such, I am satisfied that in this instance, no significant prejudice would occur if I were to consider the proposal as a full application. In this respect, I have considered the layout drawing as setting out a firm proposal.
6. The appellant has submitted a revised site location plan which omits a small part of the appeal site from the application. It is normally inappropriate to evolve a proposal through the appeal process but amended plans can be accepted if no party would be prejudiced by such a course of action. In this instance the alteration is minor and has not changed the substance of the proposal. The modification was also made early in the appeal process so all parties would have had an opportunity to consider it. As such, no prejudice has occurred from my acceptance of the revised site location plan.

Main Issues

7. The effect on the character and appearance of the area is a concern that has been raised by several interested parties. I have therefore included this as a main issue because I have enough information before me to reach a view and the appellant has provided submissions on this point. Therefore, the main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the character and appearance of the area; and
 - If the proposal would be inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

8. The Planning Policy for Travellers Sites (PPTS) states that traveller sites in the Green Belt are inappropriate development. However, Policy GB1 of the South Bucks District Local Plan 1999 (LP) states that planning permission will be granted for development involving the change of use of land when it would not compromise the purposes of including land in the Green Belt and permanently retain its open undeveloped character.
9. Aspects of Policy GB1 are broadly consistent with Paragraph 146 of the National Planning Policy Framework (the 'Framework'), which postdates the PPTS and states that the material change of use of land in the Green Belt would

- not be inappropriate development provided it would preserve openness and would not conflict with the purposes of including land in it.
10. The appeal site is currently a small field the boundaries of which are broadly defined by hedging. There is a stable block and small timber structures in one corner and fencing in the middle. However, the site is otherwise free from development and rural and open in appearance. It also forms a break in the residential development along the northern side of the road.
 11. The proposed pitches would each have a hard standing, mobile home and are likely to include vehicles such as touring caravans. There may also be amenity buildings and space for a garden. An internal road would be required to provide access to the pitches. The proposal would also generate significantly more comings and goings and general activity than the current use of the site as somewhere to turn horses out for grazing. The proposal would therefore significantly erode the openness of the Green Belt by introducing development onto land that is currently a largely undeveloped meadow.
 12. During my site visit I did not observe the presence of an existing caravan. The appellant has not established that a caravan for permanent occupation has planning permission at the site or that one can be lawfully stationed there. Accordingly, the evidence before me does not demonstrate that the proposal would amount to an intensification of a residential use or the expansion of an existing traveller site. Moreover, even if there were a mobile home on the site then the proposal would still be a significant intensification as it would span the width of the meadow. The appeal scheme's effect on openness would therefore be considerably greater than a single caravan.
 13. The appeal site adjoins several domestic properties and there is further residential development in Stoke Wood and further along Templewood Lane. Nevertheless, it has a rural character due to its current use and verdant appearance. It therefore has a visual affinity and spatial continuity with the woodland, hedge lined meadows, paddocks and allotments to the south of the road and along Driffield Lane. Moreover, the residential development nearby is sporadic and subservient to the overarching rural character of the area centred on Templewood Lane broadly east of Farnham Common and north of Stoke Poges. Consequently, the appeal scheme would result in an encroachment of development into the countryside and therefore it would undermine one of the five purposes of including land in the Green Belt listed in the Framework.
 14. In conclusion, the proposal would significantly erode the openness of the Green Belt and undermine one of the purposes of including land in it. Thus, when applying Policy GB1 of the LP, the Framework and the PPTS the proposal would be inappropriate development in the Green Belt which would, by definition, harm the Green Belt.

The effect on the character and appearance of the area

15. As already set out, the appeal site has a rural character despite the nearby presence of sporadic residential development. It is an overstatement to suggest the appeal site is in an urban framework. The site's open, verdant and undeveloped appearance contributes positively to the character of the surrounding countryside which, although fragmented, is defined by a mosaic of extensive woodland cover, small paddocks, fields, meadows and commons.

16. The appeal scheme would involve the siting of eight mobile homes with the associated domestic paraphernalia this would entail, including parked vehicles. The pitches would also incorporate hard standings which would be linked to an internal loop road. The combined effect of this would be an urban intrusion that would meaningfully alter the nature of the appeal site from a rural meadow to that of residential development. This would harmfully dilute the positive contribution the appeal site currently makes to the rural character and appearance of the countryside. The impact would be localised, however.
17. By their nature the pitches would appear very different to the existing houses nearby, but this would be tempered to an extent by the linear layout, which would respond to the orientation of the dwellings either side. That said, the site is too large for the scheme to be considered a form of natural infilling. In this respect the proposal would appear as a strident addition to the area.
18. The mobile homes could be clad in timber or finished in dark colours. This may reduce their prominence, particularly if combined with landscaping. However, it would be very difficult to successfully soften the entire development, which is likely to include touring caravans, and the other domestic paraphernalia and activity. Therefore, the development overall would still be prominent regardless of how the exterior of the mobile homes are treated or finished.
19. Hard landscaping would be inappropriate as a means of screening the development because it would create a sense of separation and isolation. However, there is an existing hedgerow along the Templewood Lane frontage of the appeal site and this would provide some softening. However, it is very gappy and therefore the appeal scheme would still be highly prominent in localised views from the road despite the mobile homes being single storey in scale and spaciouly arranged.
20. Additional landscaping could be used to assist in further softening the visual impact of the proposal, but the pitches would be close to the road and visible along the site entrances. Landscaping would also take time to mature. Accordingly, additional soft landscaping would not soften the overall impact to the point where the proposal did not appear strident and out of place.
21. In conclusion, the proposal would moderately harm the character and appearance of the area contrary to Paragraph 127 of the Framework, which seeks to secure proposals that are sympathetic to local character. The imposition of planning conditions would not address this harm.

Other Considerations

22. The Planning Policy for Traveller Sites (PPTS) requires local authorities to set pitch targets and to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against this target. The Council's Topic Paper² explains that there is a need in South Bucks for 37 pitches up until 2021 and 47 pitches up to 2026. This indicates that the pitch target in Core Policy 4 of the Core Strategy is no longer appropriate. The Council's concession that it cannot currently demonstrate a five-year supply of deliverable sites supports this, as is the indication that the Mansion Lane site is full. The appeal scheme would help address the need and do so quickly as the appeal site is immediately available.

² The Gypsy and Traveller Accommodation Topic Paper Joint Chilton and South Bucks Local Plan 2036

23. However, the PPTS states that unmet need is unlikely to establish very special circumstances. That said, in this instance much of the former South Bucks area is washed over by the Green Belt and therefore the Council acknowledges that pitches will likely need to be provided in the Green Belt to meet the unmet need. Nevertheless, the PPTS also states that specific identified needs for traveller sites in the Green Belt should be addressed through the plan making process and not in response to a planning application. There would be benefits in following a strategic approach given the significant harm that would occur to the openness of the Green Belt from developing the appeal scheme.
24. To this end the Council are currently in the process of preparing a new Joint Local Plan. Through this process it has identified a strategy that would deliver around 100 pitches in the Local Plan area over the plan period against an identified need for 85 pitches. This would include delivery through allocations and from expanding existing gypsy and traveller sites. The Local Plan is currently at the examination stage, but the process has been delayed and consequently there is uncertainty over pitch delivery, particularly in the short term. Nevertheless, the indication is that the Council are endeavouring to follow the guidance in the PPTS in following a planned approach to pitch provision in the Green Belt. In the circumstances, and based on the evidence before me, the Council's inability to identify an up to date five-year supply of pitches is a matter to be weighed in the balance but is not in itself a determinative point in favour of the proposal.
25. The appeal scheme is seeking a general permission for a Gypsy and Traveller site and is therefore not predicated on the personal circumstances of any specific individuals. There is nothing before me to suggest that a refusal of the proposal would leave anyone without alternative accommodation or that an approval would serve the best interests of any particular child.
26. Nevertheless, the future occupants of the pitch are likely to have the protected characteristic of race under s149(7) of the Equality Act 2010. In such circumstances, s149(1) of the Equality Act requires due regard to be had to the need to, amongst other matters, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not. This includes minimising disadvantages that are connected to that characteristic, such as access to suitable accommodation. This is the Public Sector Equality Duty (PSED).
27. The appeal scheme would facilitate the establishment of a base from which to pursue a nomadic lifestyle. This would allow cultural traditions to be balanced with the practicalities of modern living, thereby advancing equality of opportunity. The absence of a five-year supply of pitches also indicates inequality in housing opportunities and the proposal would help to offset this. These are important points in achieving the social sustainability sought by Paragraph 13 of the PPTS, as is the proximity of the appeal site to nearby settlements. It does not automatically follow that the appeal should be permitted because the PSED is relevant, but the equality implications of allowing the proposal weigh moderately in favour of it in this instance.

Other Matters

28. Various concerns have been raised by interested parties including reservations regarding surface water drainage, flooding and tree damage, amongst other matters. The Council's Ecology Officer also raised concerns regarding the effect

of the proposal on biodiversity and no response appears to have been received from the highway authority. It is also unclear to what extent land contamination has been considered. The Council does not appear to have considered any of these points. I would therefore need to see further evidence before arriving at conclusions on these technical matters. However, given my overall conclusion it has not been necessary to seek this information in this instance or reach findings on the other concerns raised by interested parties.

29. I have considered whether a temporary permission would be appropriate given that there may be a change in circumstances if the Council adopts its new Local Plan in the timescale it anticipates. However, the evidence before me does not indicate any immediate hardship would occur from the dismissal of the appeal, such as rendering an individual homeless. Moreover, the harm I have identified would be particularly apparent during the temporary period, especially as it would be unreasonable to impose conditions requiring temporary measures to soften the impact, such as landscaping. Thus, a temporary permission would be inappropriate in this instance.

Planning Balance - Whether there would be very special circumstances

30. Paragraphs 143 and 144 of the Framework set out the general presumption against inappropriate development within the Green Belt. Such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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 have concluded that the appeal schemes would be inappropriate development that would, by definition, harm the Green Belt. The appeal schemes would also result in significant harm to the openness of the Green Belt. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt. In addition, the proposal would moderately harm the character and appearance of the area.
32. There are several points in favour of the proposal, the most significant being that the Council are currently unable to demonstrate a five-year supply of pitches. However, the other considerations, even when taken cumulatively, would not clearly outweigh the totality of harm I have identified. It therefore follows that the very special circumstances necessary to justify the development have not been demonstrated.
33. In these circumstances, dismissing the appeal would not amount to an unjustified and disproportionate interference with the right for respect of private and family life under Article 8 of the Human Rights Act.

Conclusion

34. For the reasons given, I conclude that the appeal should fail.

Graham Chamberlain
INSPECTOR