

Appeal Decision

Hearing Held on 30 September 2021

Site Visit made on 30 September 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2021

Appeal Ref: APP/P3420/W/20/3253033

Store Garages 1 and 2 Station Road, Newchapel, Stoke-on-Trent ST7 4QS

- 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 John Price against the decision of Newcastle-under-Lyme Borough Council.
 - The application Ref 19/01021/FUL, dated 27 November 2019, was refused by notice dated 14 February 2020.
 - The development proposed is the change of use of land to use as a residential caravan site.
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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 at Store Garages 1 and 2 Station Road, Newchapel, Stoke-on-Trent ST7 4QS in accordance with the terms of the application, Ref 19/01021/FUL, dated 27 November 2019, subject to the conditions in the attached schedule.

Preliminary Matters

2. There is no dispute that the intended occupants of the pitch would accord with the definition as set out in Annex 1 of the Planning policy for traveller sites (PPTS). I see no reason to disagree based on the evidence before me.
3. The site is currently occupied by the appellant. Setting that aside, the site is not laid out as per the submitted plans. A mobile home has been stationed instead of the amenity building. A brick wall has been erected along the roadside boundary instead of fencing and shrubs. The touring caravan is not sited as per the submitted plan. A timber outbuilding has been erected and an existing brick outbuilding remains on site. Both are next to the site's eastern boundary, but the latter is to be demolished if planning permission is granted.
4. The main parties agreed that my assessment insofar as the fencing, shrub planting and hardstanding could be based on the submitted plans. They also agreed that the mobile home on site is not a building and is a caravan¹. Although proposals should not be evolved through the appeal process, the appellant confirmed that the proposal relates to the change of use of land and the mobile home would be instead of the amenity building. Consequently, it was agreed between the parties that, subject to the use of planning conditions which I shall consider in due course, the appeal scheme should be considered based on the mobile home and not the amenity building. The brick wall and timber outbuilding do not form part of my consideration as there are no details

¹ Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968

of these before me. I have considered the appeal on this basis.

5. It is common ground that the proposal is inappropriate development in the Green Belt having regard to saved Policy S3 of the Newcastle Under Lyme Local Plan 2011 (Local Plan), the National Planning Policy Framework (the Framework) and the PPTS.

Main Issues

6. Consequently, the main issues in this case are the effect of the proposed development on: (i) the openness of the Green Belt; (ii) the purposes of including the land within it; (iii) the character and appearance of the area; and (iv) would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Openness

7. The Framework sets out 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.
8. Openness has a visual and a spatial dimension. An existing brick building is to the rear of the site and some of the land was covered in hardstanding before the appellant moved onto the land. That said, the proposal has and would cause visual harm to the openness of the Green Belt due to the proposed boundary treatments, the use of the land for caravans, and through additional hardstanding compared to the aerial photographs submitted. The main effect would be from Station Road, but also from the north and east owing to the topography and use of the land, although the proposal would be viewed among nearby development. This limited loss of openness would be caused over a considerable period of time if permanent planning permission were granted which would be in conflict with Framework paragraph 137.

Purposes

9. No conflict would arise with the fourth purpose of including the land in the Green Belt. The appeal scheme would be an effective use of previously developed untidy and derelict land. It would also not encroach into the countryside as it is/would be contained by the road, neighbouring plots of land to either side and by a rear boundary consistent with the ribbon of development on the eastern side of the road. A public house, church and car parks are on the opposite side of the road. From what I saw on the ground and heard at the Hearing, the site forms part of the village of Newchapel which lies between Kidsgrove and Packmoor. The site's prior use and its location amongst a ribbon of development means that it is not preventing these settlements from merging and the land does not check unrestricted sprawl of large built-up areas. Therefore, I conclude, that the appeal scheme does not, in my view, conflict with any of the purposes of including the land in the Green Belt.

Character and appearance

10. Compared to its surroundings, the appeal scheme would not respect its character and context due to the use of land as a residential caravan site, albeit the extent of the site would accord with the settlement pattern. Hence, the proposal would not restore the character and improve the quality of

the landscape which the site sits within (Area of Landscape Restoration).

11. However, tension exists between Policies CSP1 and CSP7 of the Core Spatial Strategy 2006 – 2026 (CS). The latter requires additional pitches to minimise any negative impacts upon local landscapes, environments and neighbouring communities. CS Policy CSP7 does not rule out a negative impact as a result of this type of development and it resonates with paragraph 26 of the PPTS which advocates well planned sites or the use of soft landscaping to positive enhance the environment. Whilst the proposed pockets of soft landscaping would help, they would not minimise the negative impact due to their extent and depth. But site could accommodate more soft landscaping than shown on the submitted layout plan whilst still accommodating the caravans and parking spaces. Also, boundary treatments, landscaping and hardstanding could, subject to planning conditions minimise its negative impact on the character and context of the area which contains each of these elements.
12. On this basis the proposal would accord with CS Policy CSP7, but I conclude that this is outweighed by the conflict that would be caused by the use of the land with CS Policy CSP1 and saved Local Plan Policies N17 and N21. Together they seek, among other things, well designed development that: respects the character, identity and context of the unique townscape and landscape, helps restore the character and improve the quality of the landscape, and does not further erode the character or quality of the landscape.

Other considerations

13. I note residents' concerns about the use of the road and the safety of its users. Adequate visibility splays are needed to ensure that anyone leaving the site can see oncoming traffic in either direction so that they can leave the site safely. The wall erected on site does not benefit from planning permission, but the combined effect of planning conditions to secure details of the site layout, parking provision, hard and soft landscaping and visibility splays in either direction for this 30 mph road would appropriately address the potential highway safety issue in my opinion. Based on what I saw on site the required visibility splays would either be achievable or not unduly affected by the evergreen in the public house car park. Whilst indiscriminate parking may take place, there are no parking restrictions to prevent anyone from parking on the road. It would not be appropriate to impose a condition to solve a pre-existing problem if there is one, but there are car parks associated with the public house and the church for people to use anyway.
14. Subject to the imposition of planning conditions, the proposal would not harm the living conditions of nearby residential properties and the living conditions / wellbeing of future occupants of the site. The site is well located to a range of services and facilities and the proposal would not by virtue of its scale and location place undue pressure on local infrastructure. The site would, subject to planning conditions, benefit from appropriate foul, surface and wastewater drainage connections. There is no reason to believe adverse rubbish, mess and waste would arise, other legislative powers exist to address this if needed. Interested parties concerns about an increase in crime and the fear of crime, are not supported by substantive evidence.
15. Residents are concerned about the co-existence of the occupants within the settled community, but, subject to imposition of planning conditions to control the use and to secure satisfactory details such as hard and soft landscaping, I consider there is no reason to believe the occupants would not co-exist. I note

the instances referred to, but these are potentially matters for people or organisations outside of this appeal.

The need for, and provision of, traveller sites

16. The PPTS seeks to promote more private traveller site provision and to ensure that local planning authorities develop fair and effective strategies to meet the need for sites in appropriate locations, to address under provision and maintain an appropriate level of supply, including a five-year supply of specific deliverable sites. The parties agree that the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015 identifies a need of at least 23 pitches in Newcastle and Stoke-on-Trent between 2014/15 and 2018/19 with a further 22 pitches between 2019/20 and 2033/34.
17. There are no planning applications currently before the Council for new pitches, and no pitches have been delivered in recent years. There are two outstanding appeals awaiting determination for a single pitch and four pitches. However, the Council accepts that they do not at present have a five-year supply of specific deliverable sites.
18. The Joint Local Plan with Stoke-on-Trent Council is no longer being taken forward. Instead, the Council will pursue its own Local Plan (emerging plan). This is at a very early stage, with the current timetable envisaging submission for examination at the back end of 2023, with adoption in 2024. This programme could well slip and after its adoption there would be a period before any new pitches are delivered. The Council's approach and the location of potential sites is unclear at this stage, but the allocation of sites should not be seen as a bar to other sites coming forward if they are suitable and available.

Alternative sites

19. A pitch did recently become available at Silverdale, but this was quickly filled and all other sites within the Borough and neighbouring authorities are full. The appellant informed me that he has put his name on waiting lists on several sites but no pitches have materialised as a result over the last few years. The appellant explained at the Hearing that they had looked at other sites in the local area and further afield for several years, but there have not been any spaces, or the access was not very good at another site in the Green Belt. The Council did not dispute the appellant's testimony. I also have no reason to doubt their efforts and conclusion that there are no known alternative vacant pitches available in the Borough or in the neighbouring area that the intended occupants could potentially use.
20. I heard of the difficulties that the appellant's children have experienced whilst they lived on a family member's pitch at a site in Carrington. For the reasons explained to me, this is not a suitable long-term alternative.
21. Overall, there is a lack of alternative accommodation available. Thus, the only alternative open to the appellant and his family would be to live at the roadside if I were to dismiss the appeal given that the Council would start enforcement proceedings. This factor adds significant weight in favour of the proposal.

Personal circumstances

22. The appellant and his wife have four children. They all now live on the site after a period apart. The best interests of the children are a primary consideration in the appeal, though not necessarily determinative. Three of the children attend

primary school. They enjoy going to school where their attendance is said to be good, and they have each made friends there. The intention is for each of them to go onto secondary school locally. The other child was in school before the start of pandemic but has not attended since. They receive private tutoring for English and maths at a weekend whilst they are waiting to hear that a place has become available in a secondary school. The children's best interests would be served by having a settled base from which to access education as it would help encourage and maintain school attendance while maintaining their established social network. These important matters add substantial weight in favour of the proposal.

23. None of the family members have health conditions, but the availability of a permanent base would help maintain access to healthcare facilities.
24. As the intended site occupiers are Gypsies they have a protected characteristic for the purposes of the Public Sector Equality Duty under the Equality Act 2010. Dismissal of the appeal would interfere with the human rights of the Appellant and his family as there is no other lawful home currently available to them. I have kept these interests at the forefront of my mind. However, these are qualified rights and interference may be justified where in the public interest, such as the protection of the Green Belt. The concept of proportionality is key, but they weigh in favour of the appeal scheme.

Other Matters

25. Residents' concerns about the safe storage of gas canisters is a health and safety matter. The devaluation of property is also not a material planning consideration according to the courts. Concerns about vermin is an environmental health matter. Issues around dogs and the safety of the local population is a matter for the Police or animal welfare organisations. Damage to property is a civil matter between respective individuals. Whilst there may be other children in the area, there is no substantive evidence to suggest the proposal would pose a risk to them.
26. Points are raised about development being carried out without planning permission and the land being used to run a business from the site. However, my decision is based on the development applied for. Matters outside of this should be raised with the Council's Enforcement Team in the first instance. I have considered the appeal based on its specific planning merits which includes the circumstances of the occupants. The same site-specific approach would need to be taken should any other development proposal come forward.

The Planning Balance

27. The proposal would result in harm by reason of its inappropriateness and cause a limited impact on the openness of the Green Belt. These matters collectively carry substantial weight against the proposal. There would be no impact on the purposes of including the land within the Green Belt. The proposal causes harm insofar as character and appearance. I attach moderate weight to this matter.
28. The proposal would bring about benefits relating to an unmet need, the lack of a 5 year supply, the lack of alternative accommodation, the uncertainty of the availability of future supply, the needs of the children and the family being together as a cohesive unit. These matters all attract at least significant weight and in combination are of considerable weight. There is also uncertainty about where future sites may be allocated. I also take into consideration the

interference with the human rights of the Appellant and his family.

29. The PPTS is clear that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to Green Belt and any other harm. The unmet need is not certain to be addressed in the immediate future. There is uncertainty about whether the emerging plan will be progressed in the timeline predicted and whether it would provide the necessary allocation of pitches. However, this combination of factors is not sufficient to clearly outweigh the identified harm from the proposal and indicates that a permanent permission should not be granted at this time.
30. However, given the circumstances consideration of whether a temporary planning permission would be appropriate is necessary. The lack of a five-year supply of land for traveller sites in the area carries considerable weight notwithstanding the site's Green Belt location due to the other sites looked at by the appellant and in the absence of alternative accommodation for the appellant and his family.
31. If planning permission were to be refused, the appellant and his family would be likely, given the Council's intention to start enforcement proceedings, to be living by the roadside. This would be a serious interference with these individuals' rights to respect for private and family life and the home (Article 8 of the HRA). This existence would also not be in the best interests of the children which I set out earlier or the family unit.
32. I agree with the parties, given the timeframe outlined for the emerging plan to be adopted, and allowing for a period thereafter for the delivery of the proposed sites, that a limited period until the end of 2025 would be suitable whilst allowing for some slippage. The end of 2025 would be before three of the children reach the age when examinations take place or after the eldest completes theirs if they return to education. In this time the family would have a settled base and access to education and health care, for sites to be identified, proposed and allocated in the emerging plan; and allow the current personal circumstances of the intended occupants to be reviewed.
33. A condition for the site's restoration at the end of the limited period would help mitigate the Green Belt harm I have identified because the small-scale nature of the proposal means that it could easily be removed at the end of either period. It would not, however, mean that Green Belt harm would not arise in the intervening time.
34. A permission for a limited period would be a proportionate approach to the legitimate aim of protecting the environment and the Green Belt. It would also strike an appropriate balance between the rights of the individuals and the protection of matters of acknowledged public interest. Subject to the imposition of appropriate conditions, a temporary planning permission, would not be disproportionate and would not result in a violation of the rights of the individuals concerned.

Conditions

35. I have had regard to the suggested list of planning conditions provided by the main parties at the Hearing and their comments on them. In the interests of certainty an approved plans condition is necessary though I have only included particular plans to reflect the situation on site and the need for a Site Development Scheme to secure details of hard and soft landscaping, foul,

surface and wastewater drainage, and the layout of the site given the change in circumstances set out at the start of my decision. This condition is necessary in the interests of certainty, the character and appearance of the area and to ensure that appropriate drainage connections are made to prevent localised flooding and or contamination. A condition is necessary to ensure replacement planting takes place if any of the soft landscaping scheme fails in the interest of the character and appearance of the area, but I have tailored this to respond to the duration of the planning permission.

36. Due to my findings about the intended occupants and the PPTS definition, a condition to tie the occupation of the land to gypsies and travellers is necessary. A condition is necessary to limit the occupancy of the land for a limited period for the avoidance of doubt. I have also imposed a condition, in the interests of certainty and the character and appearance of the area, to control the number and type of caravans on the pitches. For the same reason, a condition is necessary so that the land is restored to its former condition at the end of the time period. So that the development does not adversely affect highway safety, I have imposed a visibility splay condition.

Conclusion

37. For the reasons given above, relevant considerations indicate that planning permission should be granted for development that is not in accordance with the development plan as a whole. I conclude that a case has been made, in respect of the appellant and his family to clearly outweigh the harm to the Green Belt, thereby justifying the proposal on the basis of very special circumstances.

38. For the reasons given above I conclude that the appeal should be allowed.

Mr Andrew McGlone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Brown
John Price

Philip Brown Associates
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Charles Winnett
Rachel Killeen
Nicola Howell
Liz Hackman

Newcastle-under-Lyme Borough Council
Newcastle-under-Lyme Borough Council
Newcastle-under-Lyme Borough Council
Newcastle-under-Lyme Borough Council

INTERESTED PARTIES:

In-person

Keith Dunn

Virtual

Graham Parkes

Kerry Ashdown

William Timbey

Shelley Worthington

Paul Lejman

DOCUMENTS

1 Updated suggested planning conditions

2 Extract of Proposals Map

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Fencing Details.
2. The occupation of the site hereby permitted shall be carried on only by John Price and Deborah Price and their resident dependants and shall be for a limited period until the end of 31 December 2025, or the period during which the land is occupied by them, whichever is the shorter.
3. When the land ceases to be occupied by those named in condition 2 above, or at the end of the stated period, whichever shall first occur, the use hereby permitted shall cease and all mobile homes, caravans, buildings, structures, materials and equipment brought on to, erected on the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme of work and timescale that shall previously have been submitted to and approved in writing by the Local Planning Authority.
4. 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 August 2015 (or its equivalent in replacement national policy).
5. 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 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time.
6. No more than one commercial vehicle shall be kept on the land. The vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site and shall not be used other than by occupiers of the site. No other commercial vehicles shall be kept on the land.
7. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iii) below:
 - (i) within 3 months of the date of this decision a scheme (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the local planning authority for:
 - (a) hard and soft landscaping. Hard landscaping shall include means of enclosure and surfacing materials. Soft landscaping shall include identification of all hedge and shrub planting including details of species, plant sizes and proposed numbers and densities;
 - (b) details of foul, surface and waste water drainage (including 'grey' waste water from washing/shower facilities) either by connection to a public sewer or by discharge to a properly constructed sewage treatment plant, septic tank or cesspool. All drainage and sanitation provision shall be in accordance with all current legislation and British Standards;
 - (c) details of the internal layout of the site, including parking arrangement and the siting of caravans and the provision to be made for parking of vehicles on the site;
 - (d) a timetable for the implementation of the Site Development Scheme.

(ii) If within 12 months of the date of this decision the local planning authority refuse to approve the Site Development Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.

Upon implementation of the approved Site Development Scheme specified in this condition, that scheme shall thereafter be maintained. No lighting, hardstandings or means of enclosure other than those forming part of the approved scheme shall be constructed or erected on the site.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

8. If within the time period of permission hereby granted, any plants which formed part of the approved site development scheme 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.
9. Visibility splays shall hereafter be maintained on both sides of the site access measuring not less than 2.4 metres along the centre line of the access by 43 metres along the edge of the carriageway. The areas contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

END OF SCHEDULE