



Appeal Decision

Hearing Held on 26 April 2022

Site visit made on 26 April 2022

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 MAY 2022

Appeal Ref: APP/P0240/W/20/3244489

The Stables, Stanbridge Road, Great Billington, Leighton Buzzard, LU7 9JH.

- 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 Mrs K Quilligan against the decision of Central Bedfordshire Council.
 - The application Ref. CB/18/04070/FULL, dated 25 October 2018, was refused by notice dated 10 July 2019.
 - The development proposed is the change of use of land to use as a residential caravan site for 6 gypsy families each with two caravans including no more than one static caravan, together with laying of hardstanding.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. Written representations from Mr M Heast say that he is the owner of part of the access to the site but has not been notified of the proposal nor will he give an easement over his land for the proposed development if planning permission is granted. It is clear that Mr Heast is aware of the proposal, having been served notice of the application, and he was able to make his comments on the appeal. As such he is not prejudiced by the holding of the hearing and a decision on the appeal. The issue of the right of access to the appeal site is a private matter for the parties involved to resolve.

Main Issues

3. The appellant agrees that the proposal constitutes 'inappropriate development' in the Green Belt. Within this context the main issues are:
 - Whether the principle of the development accords with the development plan;
 - The effect on the openness of the Green Belt and the character and appearance of the area;
 - The need for traveller sites locally and whether the Council can demonstrate a five-year supply of new sites;
 - The effect on the Chilterns Beechwoods Special Area of Conservation (SAC);

- The intended occupiers personal circumstances including the best interests of any children; and
- Whether the harm due to inappropriateness, and any other harm is clearly outweighed by other considerations so as to constitute very special circumstances (VSC).

Reasons

Background

4. The appeal site is a generally rectangular area of land which is situated in an area of countryside to the east of the village of Great Billington. It also lies on the western edge of a group of existing gypsy and traveller sites and opposite an extensive transport and recycling depot on the south-east side of Stanbridge Road. The site lies within the Green Belt. At the time of my visit the appeal site was occupied by four touring caravans and the site was partly surfaced in stone chippings. It is proposed to form 6 residential caravan pitches each with a static caravan and space for a touring van and two parking spaces. The caravans would be occupied by various members of the Doherty family, as described below in paragraphs 21-22, rather than the stated appellant.

Policy context and accord with development strategy

5. Since the Council's decision on the application and the lodging of the appeal, the Council's emerging Local Plan has been subject to Examination and following the Inspectors' report was adopted in July 2021. In terms of the development plan, I have only had regard to the provisions of the Central Bedfordshire Local Plan (the LP).
6. LP Policy SP4 on new development in the Green Belt is consistent with the provisions of section 13 of the National Planning Policy Framework (the Framework) which indicates in paragraph 147 that 'inappropriate development' is harmful to the Green Belt and should not be approved except in VSC. The appellant agrees that the proposal constitutes 'inappropriate development' and therefore conflicts with this part of the development plan and national policy. There is also an issue of the effect on the openness of the Green Belt to be considered in a subsequent issue.
7. LP Policy SP8 deals with the overall provision of gypsy and traveller sites, which I will deal with in a following issue, and Policy H7 sets out criteria for assessing individual applications. The Council's objection under Policy H7 relates to criterion 2, the effect on the character and appearance of the area as considered below.

The effect on openness of the Green Belt and landscape character

8. As shown in the main parties' statements, the planning history of the area around the appeal site is extensive and complex. While there are a great number of gypsy and traveller pitches to the north of Stanbridge Road, not all are lawful. In assessing the effect on openness and the landscape character of the area, at the site visit I tried to distinguish between the lawful uses and others including having regard to the annotated aerial photograph submitted by Mr Brown which distinguishes between these areas in general terms.

9. In this case although no permanent buildings are proposed the use would involve the permanent siting of 6 residential static vans and the other trappings of residential use with touring vans and the parking of vehicles. In spatial terms these would intrude northwards onto open land where the lawful use comprises agricultural land beyond the nucleus of lawful pitches. The presence and spread of caravans and domestic paraphernalia would have a moderately harmful effect on the openness of the Green Belt beyond the adjacent lawful residential pitches.
10. In visual terms there is a piecemeal hedgerow around the northern and western boundaries of the site but the boundary to the east is mostly open or marked with a broken fence. The hedgerow would partly contain the visual impact of the caravans from the other private land to the north. Further, the reinforcement of this hedgerow with additional planting could be conditioned. Views from the public realm are limited to those from Stanbridge Road and are restricted to the gap formed by the existing access because of the screening effect of hedgerows and shrubs on the adjacent land to the west and the walls and enclosures on the lawful pitches around the access. The proposal also involves the establishment of a small woodland to enhance land presently tipped on with spoil and rubbish and this woodland could limit views of the proposed pitches through the access. The planting of the woodland and its retention could be required by condition. However, even taking this potential landscaping into account I find that the proposal would have a moderately harmful visual impact on the openness of the Green Belt.
11. In relation to the effect on the general landscape character of the area, although the site lies in countryside, described as part of the Eaton Bray Clay Vale¹, I have taken account of the presence of the lawful gypsy and traveller sites locally and the commercial complex on the southern side of the road. Nevertheless, like the Green Belt issue above, the proposal would have a limited to moderate visual impact on the countryside character of the landscape. Moreover, I also recognise the Council's concern that the appeal site development could easily be repeated and would be likely to lead to further development on adjacent land and the proposal should not be considered in isolation of this.
12. I conclude on this issue that the proposal would result in limited to moderate harm to the openness of the Green Belt and to the intrinsic countryside landscape character of the area. Such harm would conflict with LP Policy EE5 and to criterion 7 of the LP Policy H7 concerning the assessment of gypsy and traveller sites.

The need for traveller sites locally and five-year supply of new sites

13. The reasoned justification to LP Policy SP8 indicates that the Council has identified that 29 pitches will be needed for gypsies and travellers up to 2035 based on the 2016 Gypsy and Traveller Accommodation Assessment (GTAA). Moreover, Policy SP8 indicates that the Council has already permitted a sufficient number of pitches (39 pitches) to meet the identified need. Therefore, further allocations were not necessary; only a criterion based policy for considering windfall applications as per Policy H7.

¹ As defined in the Central Bedfordshire Landscape Character Assessment 2015

14. The evidence base and the emerging policy was considered in the LP Examination. The Inspectors found that, with modification, Policy SP8 was sound and justified, and was consistent with national policy in that a five-year supply of new sites can be demonstrated.
15. Therefore, Policy SP8 has to be taken as up to date and robust. The Council advised that the number of pitches permitted had risen to 44 by the time of the Hearing. The Council therefore continues to be able to demonstrate a five-year supply as per Policy B and paragraph 10 of the Planning Policy for Traveller Sites (PPTS).
16. Mr Brown does not dispute the LP position but submits that the GTAA greatly underestimates the level of need by, for example, being based on a low rate of survey interviews secured with the gypsy and traveller community. Further he says that there is not adequate assessment and provision for people who identify as gypsies or travellers but who do not meet the definition set out in the annex to the PPTS. He says that in practice this results in a substantial unmet need which can only be met through Policy H7 being interpreted in a positive way in the grant of further permissions. However, the Council refers to section 11.7 of the reasoned justification to Policy H7 which refers to the Council's duties under the Equalities Act and confirms that the policy will apply to all gypsies and travellers whatever their status under the definition.
17. Overall, on the evidence put to me I find that the Council has made proper provision to meet the needs of gypsies and travellers through the local plan process and it has not been reasonably established that there is other significant need which has to be met independently of this.

Effect on Chilterns Beechwoods SAC

18. The effect on the SAC is now an issue that concerns the appeal. The general position is set out in the letter from Natural England (NE) dated 14 March 2022 which advises that evidence is now emerging about the effect of additional recreational pressures on the Chiltern Beechwoods, particularly Ashridge Commons and Woods Site of Special Scientific Interest (SSSI). Moreover, the guidance from NE calls for the establishment of a Zone of Influence around the SSSI where likely significant effects on the SAC, due to recreational impacts from net increases in residential development, cannot be ruled out. Mitigation measures will therefore be required for new development in the Zone to ensure that there will be no adverse effects on the integrity of the SAC but for the moment no such mitigation has been established. The appeal site lies within the 12.6km Zone of Influence.
19. Mr Brown for the appellant queries whether the new guidance should apply to new caravan sites as section 7 of the NE letter refers to a 'net increase in dwellings. However, the proposal is for six residential caravans i.e. accommodating new residential households and I am satisfied that the proposal is subject to the NE guidance. I also note that the Council's booklet of FAQs sets out in the table on page 6 that Gypsies and Travellers plots is one of the forms of development affected by the restrictions. Mr Brown also queries whether the intended families' occupation of the site should be regarded as 'new' as most have lived on the site for some years and before the issue of the NE guidance. Nevertheless, I am satisfied that the proposal is for net new development and is not a replacement of lawful pitches. There is also no specific evidence before me that the occupiers of the proposed pitches would

be very unlikely to add at any time to the recreational pressures on Ashridge Commons and Woods.

20. For the purposes of the Habitat Regulations 2017 I am the 'competent authority' and have had regard to the representations from Natural England. As the proposal stands on the evidence submitted, I find that the development of 6 residential pitches, either on its own or in combination with other plans or projects, would be likely to have a significant effect on the designated site and it has not been demonstrated that the additional population arising from the proposal will not adversely affect the integrity of the SAC.

Personal circumstances including the best interest of any children

21. The details of the families who intend to live on the 6 pitches proposed are set out in Mr Brown's statement although the ages of the children referred to should now generally be increased by three years. The families are a close knit family group although there is now a minor change in those who seek to reside on the appeal site. Three of the families live on the site at the moment in the four touring caravans.
22. Mr Brown and Ms Capper stressed the importance to the families of the children having a permanent and secure base from which the children can attend local schools for their educational and social development. This is not achieved when the families are faced with having a life on the road or on *ad hoc* unauthorised sites. There is evidence that this has affected their educational development. When not travelling with their families some of the children attend Stanbridge Primary School and the families hope to enrol the other children of primary and middle school age in school places for the coming year.
23. It is clear that the proposal would enable the residents of the site to be able to live in a close knit family group and access health and educational facilities from a settled base as the site is reasonably close to those and other local and community facilities. The Council also accept that there are no known alternative lawful sites for the families to locate to at the moment as the ones referred to in paragraph 15 above have all been permitted with personal occupancy conditions. Therefore, if this appeal is turned down there is a likelihood that some of the families would be without a permanent home.
24. Taking account of these factors, the personal circumstances of the future occupiers, and especially the best interest of the children weigh significantly in favour of the development.

Green Belt and planning balance and whether VSC

25. At the start of considering the planning balance I have borne in mind the duties under the Public Sector Equality Duty and have placed no single aspect above the best interests of the children whose families intend to live on the site.
26. On the main issues it is clear that the proposal involves 'inappropriate development' in the Green Belt and would result in limited to modest harm to the openness of the Green Belt. Keeping land permanently open is one of the fundamental aims of Green Belt policy and substantial weight has to be given to this harm. As part of the site has been hard-surfaced and used for the

siting of residential caravans this constitutes 'intentional unauthorised development' in the Green Belt².

27. I have also found that the proposal conflicts with Policy SP4 regarding Green Belts; Policy EE5 on the impact on landscape character; and Policy H7 (2) on the criteria for considering gypsy and traveller sites. As part of the LP process the Council has demonstrated that proper provision has been made for gypsies and travellers and that an appropriate five year's supply can be shown at the moment. It has not been shown there is other significant unmet need. The LP is up to date and a decision should be made in accordance with its provisions unless other considerations indicate otherwise.
28. The proposed site also lies within the recently established Zone of Influence around the Ashridge Commons and Woods Site SSSI, and the additional residential accommodation proposed would be likely to add to the recreational pressures on this area and adversely affect the integrity of the Chilterns Beechwoods SAC.
29. To be balanced with this are the personal circumstances of the intended occupiers of the development proposed, and especially the best interests of their children.
30. However, in this case the cumulative weight of these other considerations do not clearly outweigh the harm arising to the Green Belt, development plan policy conflict or recently discovered ecological harm. I find that the proposed six pitches should not be permitted on a permanent basis nor are there exceptional circumstances to justify a permission for a limited period only.
31. The dismissal of the appeal may lead to circumstances where the families will have to vacate the site and may be faced with a life on the road. This would be an interference with their rights but given the clear public interest in protecting the Green Belt from harm and ensuring that new development meets the provisions of the development plan, I am satisfied that the dismissal of the appeal is necessary and proportionate.

Conclusion

32. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR

² As mentioned in the Policy Statement from the Chief Planner DCLG – issued 15 August 2015.

APPEARANCES

FOR THE APPELLANT+ :

P Brown, BA (Hons), MRTPI

MD, Philip Brown Associates Ltd.

J Capper

Margaret Clitherow Trust.

FOR THE LOCAL PLANNING AUTHORITY:

P Hughes, BA(Hons) MRTPI, FRGS, Dip
Man, MCIM.

Planning Consultant, on behalf of Central
Bedfordshire Council.

S Jarman, BSc, Dip TP, PGC

Opinion Research Services

INTERESTED PERSONS:

Documents submitted at the Hearing

1. Annotated Aerial Photograph (2016) showing Appeal Site and areas of lawful development (from Mr Brown).
2. Chiltern Beechwoods SAC – FAQs March 2022 from Mr Hughes.
3. Suggested Conditions from Mr Hughes.
4. Factual Note re Development Plan – Mr Hughes.
5. Extract from Central Bedfordshire Local Plan Inspectors report 15 July 2021 pages 77-79 - Mr Brown.