



Appeal Decision

Hearing held on 8 June 2022

Site visit made on 8 June 2022

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th July 2022

Appeal Ref: APP/P0240/W/20/3253835

Ash Tree Paddock, Stanbridge Road, Great Billington 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 Mr H Fury against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/00140/FULL, dated 16 January 2019, was refused by notice dated 9 December 2019.
 - The development proposed is described on the application form as one additional pitch on land adjacent to an existing Gypsy site. The new pitch to contain one static caravan, one touring caravan, parking for two vehicles with associated hardstanding, septic tanks/water treatment plants and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form. At the hearing, the parties agreed that the description should be taken from the appeal form which includes reference to the change of use of the land. This would ensure clarity and compliance with the definition of development in planning law.
3. At the hearing, it was clarified that the intended occupants of the site would be the appellant's adult daughter Montana, her husband Manalitho, plus resident dependants, currently their baby daughter and the appellant's father. The appellant and his family are English (Romany) gypsies and the parties agreed that Montana and Manalitho meet the definition of gypsies and travellers in Annex 1 of the Planning Policy for Traveller Sites 2015 (PPTS).
4. The appeal was submitted in June 2020 but there was a lengthy delay in holding the hearing due to the effect of the pandemic. The Central Bedfordshire Local Plan 2035 (LP) was adopted in July 2021 which has replaced the South Bedfordshire Local Plan Review 2004. The parties were afforded the opportunity to update their appeal statements on this and other matters in advance of the hearing. I have taken these updates into account.

Main Issues

5. The main issues are:
 - (a) the effect of the proposal on the openness and purposes of the Green Belt;
 - (b) the effect of the proposal on the character and appearance of the area;

(c) the effect of the proposal on the Chilterns Beechwoods Special Area of Conservation (SAC); and

(d) whether any harm to the Green Belt, and any other harm, would be clearly outweighed by other considerations (including the need for gypsy and traveller sites and the personal circumstances of the occupiers of the site) so as to amount to the very special circumstances required to justify the proposal.

Reasons

The site and its surroundings

6. The appeal site forms part of the land associated with Ash Tree Paddock on the south side of Stanbridge Road. Immediately to the east of the site is a driveway serving three authorised gypsy pitches at Ash Tree Paddock along with an access point onto the road. Planning permission was granted in 2013 for three named families, including the appellant and his family, to occupy the pitches with no more than 6 caravans (of which no more than three should be static caravans). At my site visit, there were a number of static and touring caravans on each pitch along with various vehicles.
7. The site comprises a small section of a larger field that is currently divided into three parcels by post and rail fencing and used for horse grazing. The site and wider field are free from any built structures and covered in grass and scrub. From the access point onto the road, there are views south across the site and field to the countryside beyond.
8. Mature trees and hedgerows along the northern site boundary largely screen the site from the road either side of the access point. Such vegetation runs along most of the length of this road between the village of Great Billington and the A505. Between the site and the village to the west are fields and small clusters of housing bordering the road including those just to the north and north-west of the site. To the east of the site and Ash Tree Paddock on the same side of the road is another authorised gypsy and traveller site and a large commercial yard. Opposite the yard on the north side of the road is a large complex of gypsy and traveller sites known as The Stables. The parties agreed that the pitches adjacent to the road at The Stables are authorised while those further to the rear are not.

The effect on Green Belt openness and purposes

9. The site is located within the Green Belt. PPTS paragraph 16 states that gypsy and traveller sites in the Green Belt are inappropriate development. Paragraph 137 of the National Planning Policy Framework (NPPF) states 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. Of the Green Belt purposes listed in NPPF paragraph 138, safeguarding the countryside from encroachment is the most applicable to this proposal. LP Policy SP4 sets out a general presumption against inappropriate development in the Green Belt and states that proposals will be assessed in accordance with government guidance including the NPPF. The policy is consistent with the NPPF for the purposes of this appeal.
10. Drawing number BP-01-2019 shows how the proposal could be arranged on site, with the static caravan furthest from the road and a touring caravan in front. The drawing shows a bin store, water treatment plant, and parking space

for two vehicles. Hardstanding is not indicated on the drawing but it is likely that it would cover most of the site to access the above elements. There would be residential activity and movement along with lighting. The static caravan could be larger than shown, up to the limits permitted by the Caravan Sites Act 1968.

11. It is possible that the exact layout of the site could be established via a site development scheme secured by condition with the access into the site from the driveway moved away from the roadside to avoid impacting on existing boundary vegetation. Nevertheless, the proposal would result in a reduction in the openness of the Green Belt in spatial terms through the changes proposed to an undeveloped site. It would also encroach into the countryside.
12. The existing roadside vegetation, which could be supplemented with further planting, would restrict views of the proposal to just the access point. Such views could be softened by proposed vegetation screening along the driveway boundary while fencing could be unobtrusive post and rail. However, the open view across the site to the countryside beyond would be diminished. Therefore, while the proposal would be small in scale with restricted public visibility, there would still be moderate harm to the openness of the Green Belt and conflict with regard to countryside encroachment.

Character and appearance

13. The site is located within the Eaton Bray Clay Vale Landscape Character Area (LCA) in the Central Bedfordshire Landscape Character Assessment 2015. The LCA is a low lying, open, rural landscape with views of higher ground. It is also interspersed with major roads and other modern features such as pylons. The overall strategy for the LCA is to enhance and renew the landscape by restoring and repairing elements that have been lost or degraded. The character and appearance of the area along Stanbridge Road is not wholly rural due to the influences of the road, built development, commercial uses, and authorised gypsy and traveller sites. It shares some of the key characteristics and features of the LCA but is more contained by vegetation and development.
14. The proposal would be similar to existing nearby authorised gypsy and traveller sites in general character and appearance and adjacent to a cluster of built development and commercial uses. Existing hedgerows would be maintained and supplemented. However, it would erode part of an open field and extend piecemeal development on this side of Stanbridge Road. It would not result in the enhancement or renewal of the LCA. Therefore, the proposal would cause moderate harm to the character and appearance of the area.
15. Concluding on this main issue, the proposal would have a negative effect on the character and appearance of the area. Therefore, it would conflict with LP Policies H7(2), EE5 and HQ1. Amongst other things, these policies require development, including gypsy and traveller proposals, to safeguard local character and distinctiveness and avoid detrimental effects on the landscape. The proposal would also fail to accord with NPPF paragraph 174(b) which recognises the intrinsic character and beauty of the countryside.

The effect on Chilterns Beechwoods SAC

16. The site is within the 12.6km Zone of Influence (ZOI) for the Chilterns Beechwoods SAC, specifically the Ashridge Commons and Woods Site of Special

Scientific Interest (SSSI) component. The SAC was designated due to the importance of its habitats, namely beech forests, dry grasslands, and scrublands, as well as rare species (stag beetles). Natural England (NE) advised on 14 March 2022 that there is emerging evidence about the effect of additional recreational pressures on the SSSI part of the SAC. NE considers that net new residential development within the ZOI would be expected to result in increased residential pressure on the SSSI part of the SAC. No mitigation strategy has yet been agreed between the affected local planning authorities, landowners and NE. At present, the Council is unable to determine any residential development within the ZOI where it is minded to approve.

17. The parties agreed that gypsy and traveller pitches constitute residential development and that the proposal could result in likely significant effects on the SAC in combination with other plans or projects. Therefore, it would be necessary for me to carry out an appropriate assessment (AA) as part of my decision were I minded to allow the appeal. However, given my findings on other main issues and the overall planning balance, there is no need for me to carry out an AA as there is no prospect of planning permission being granted. As a consequence, it is not necessary for me to reach a finding on this issue or wait for a mitigation strategy to be adopted.

Other considerations

18. LP Policy SP8 addresses the pitch requirement for gypsies and travellers in Central Bedfordshire who meet the PPTS definition. The policy is informed by the Central Bedfordshire Gypsy and Traveller Accommodation Assessment 2016 (GTAA) which looked at gypsies and travellers who meet the PPTS definition, those who do not, and unknown households. The policy states that the Council has already approved a sufficient number of pitches to meet the accommodation need of PPTS groups for the plan period 2015-2035. The supporting text explains that the Council has exceeded the GTAA requirement for 29 pitches up to 2035 and that a five-year supply can be maintained over the plan period. The policy further states that windfall applications will be determined against LP Policy H7 and other relevant policies in the plan.
19. While the appellant has criticisms of the GTAA methodology, they accepted that the LP has been through an examination process and is recently adopted. However, they argued that the LP fails to meet the unmet need for non-PPTS gypsies and travellers which stands at around 120 pitches across the plan period. The appellant also highlighted caravan count data from 2016 which shows 113 unauthorised caravans in Central Bedfordshire.
20. The PPTS only requires local planning authorities to set pitch targets for PPTS compliant gypsies and travellers. NPPF paragraph 62 requires housing needs for travellers to be assessed and reflected in planning policies. The supporting text to LP Policy H7 is clear that the windfall policy applies to all gypsies and travellers, with the Council conscious of its duties under the Equality Act 2010. The policy itself follows a criteria-based approach to assess whether proposals will be permitted.
21. I consider that the Council has assessed non-PPTS gypsies and travellers via the GTAA and makes provision for their needs via LP Policy H7. Moreover, the proposal before me is for people who would meet the PPTS definition and so the proposal would not make provision for any unmet non-PPTS need. The caravan count data is a snapshot from over 6 years ago and not a clear

indication of unmet need. Therefore, while the unmet non-PPTS need is significant, limited weight can be attached to this other consideration for the purposes of this appeal.

22. The intended occupants of the site currently live on the authorised pitches at Ash Tree Paddock. From discussions at the hearing and my site visit, it is apparent that some doubling up of accommodation is taking place. Reference was made to ongoing licencing investigations relating to the safety of the existing pitches in terms of their layout. The appellant explained that he wanted the family to continue living together locally. With this in mind, neither the appellant nor the Council could identify any alternative sites in the local area that were suitable, available, affordable and acceptable to meet the needs of the intended occupants.
23. It is not disputed that the appellant's father has various health conditions and is cared for by the appellant's daughter Montana. It is intended that this care would continue into the future and he would continue to live in a touring caravan as he does at present. He is registered at a local doctors surgery and has appointments at nearby hospitals. Montana's daughter is also registered with local doctors and the intention is for her to attend local schools when she is old enough. Having regard to the best interests of the child as a primary consideration, the need for a stable base to access services and facilities and the lack of alternative locations for this particular family carries considerable weight.
24. It is possible that enforcement action could be taken against the current occupation levels on the authorised pitches. This could lead to the appellant's daughter and her family, including the appellant's father, resorting to a roadside existence in the absence of anywhere else to go. This could affect access to healthcare and, in due course, schooling. However, the Council would have to decide whether it would be expedient to take enforcement action against any breach of planning control. To my knowledge, no decision has been made or enforcement notice served. There are licencing concerns about the current levels of occupation, but this is separate to the planning process. It has not been demonstrated that there is a realistic prospect of a roadside existence in the event this appeal is dismissed and so I give this other consideration limited weight.

Other matters

25. The nearest larger settlements of Eaton Bray and Leighton Buzzard are 2-3 miles away. Due to the nature of the road network and lack of public transport options, occupants of the site would be mainly reliant on the private car to reach these settlements. However, the proposal would only involve a single family, there are existing gypsy and traveller pitches nearby, and the distances are reasonable. Therefore, the proposal would not be harmful in terms of accessibility to facilities having regard to LP Policy H7(5), the NPPF and the PPTS. The lack of conflict with LP Policy H7 other than criterion (2) is a neutral matter.

The overall planning balance

26. NPPF paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 148 advises that substantial weight should be

given to any harm to the Green Belt and that 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. PPTS paragraph 16 states that subject to the best interests of the child, 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. PPTS paragraph 24 sets out a range of relevant matters to consider when considering proposals for traveller sites.

27. The proposal would represent inappropriate development in the Green Belt and would result in moderate harm to Green Belt openness and conflict with one of the Green Belt purposes. This carries substantial weight. There would also be moderate harm to the character and appearance of the area which carries moderate weight.
28. While the proposal if approved would provide an additional gypsy and traveller site for people who meet the PPTS definition, there is no shortfall of such sites in Central Bedfordshire. Only limited weight can be attributed to the unmet need for non-PPTS gypsies and travellers for the reasons given above. Limited weight can also be afforded to the prospect of a roadside existence based on the lack of enforcement action to date. Considerable weight can be afforded to the personal circumstances of the intended occupants and the lack of alternative options for the family. Taken individually or together, the other considerations in this proposal do not clearly outweigh the harm to the Green Belt. Therefore, the very special circumstances necessary to justify the proposal do not exist.
29. The continued doubling up of accommodation within the existing pitches without the prospect of a new pitch being available amounts to an interference with home, private and family life having regard to Article 8 of the European Convention on Human Rights as incorporated into UK law by the Human Rights Act 1998. Resorting to a roadside existence, if this occurred, would also represent an interference. However, these human rights are qualified and need to be balanced against the public interest which includes the protection of the Green Belt in this case. Thus, the dismissal of the appeal would be a proportionate and necessary response and there would be no violation of human rights in this instance.
30. I have also had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 which seeks to eliminate discrimination, advance equality, and foster good relations between those with protected characteristics and those without. However, dismissing this appeal would be justified as I have weighed the harm against the other considerations relating to the appellant's case.
31. Neither party sought the imposition of a temporary permission but it remains necessary for me to consider whether such permission would protect the public interest by a means that would be less interfering to the intended occupant's human rights and thus be a more proportionate response. It is not evident that personal circumstances will change significantly in the next 2-5 years. The health and education needs are likely to continue beyond that time period. The supply of PPTS pitches is positive for current and future need. As a consequence, there is little justification for a temporary permission that would cause harm to the Green Belt, even on a short-term basis, and so it would not

be a necessary or proportionate response. Similarly, given that the personal circumstances would not be sufficient to outweigh the harm, a personal permission would not be justified either.

32. In conclusion, the other considerations advanced in this appeal do not clearly outweigh the harm to the Green Belt and the character and appearance of the area and the conflict with LP Policies SP4, SP8, H7(2), EE5 and HQ1. The proposal would not accord with PPTS paragraphs 16 and 24 or NPPF paragraphs 147 and 148. Therefore, the proposal should not be granted planning permission.

Conclusion

33. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

Appearances

For the Appellant:

Philip Brown	Philip Brown Associates Limited
Hugh Fury	Appellant
Montana Kindon	Appellant's daughter
Manalitho Kindon	Appellant's son-in-law

For the Local Planning Authority:

Phillip Hughes BA (Hons) MRTPI FRGS Dip Man MCIM	PHD Chartered Town Planners Limited
Steve Jarman BSc Dip TP	Opinion Research Services

Documents Submitted During Hearing

1. Policies SP4, SP8, H7, EE5 and HQ1 of the Central Bedfordshire Local Plan
2. Aerial photograph (2016) showing areas of lawful development at The Stables