



Appeal Decision

Hearing held on 5 April 2022

Site visit made on 5 April 2022

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2022

Appeal Ref: APP/V01510/W/19/3243732

Land at White Cross Road, Wilburton, Ely, Cambs CB6 3QB

- 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 James Douglas against the decision of East Cambridgeshire District Council.
 - The application Ref 18/00955/FUL, dated 10 July 2018, was refused by notice dated 20 June 2019.
 - The development proposed is described as '*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 change of use of land for the stationing of 3 static caravans for residential occupation, 3 touring caravans and 3 brick-built day rooms on land south of 10 Narrabeen Park, White Cross Road, Wilburton, Cambs CB6 3QB, in accordance with the terms of the application Ref 18/00955/FUL, dated 10 July 2018, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The proposal involves a scheme for the site to accommodate 3 static caravans, 3 touring caravans and 3 brick built day-rooms. A separate access from White Cross Road is also shown.
3. The Council's decision notice gives a more specific address, and I will use this for the purposes of my decision. I am also describing the proposal in full to better target the development involved.
4. Prior to the Hearing the Council withdrew its objection to the development in respect of the proposal's effect on the drainage and flooding in the area subject to the imposition of a suitably worded condition relating to the proposed retention of a buffer strip to allow for necessary access and maintenance, and the permeability of surfacing.
5. Signed Statements have been produced from James Douglas (the appellant), Ricky Bull and James Brede, all indicating their gypsy status and the importance of them finding settled accommodation for their respective families. Their status is not disputed. All three have local connections and also regularly travel for work. Should planning permission be granted both James Douglas and James Brede would move to the site along with their families. Two of Mr Douglas's children are of school age, and did attend schools in the County but,

as his family have been recently living temporarily in Somerset, they are currently out-of-school. Ricky Bull's family live at the Narrabeen Park site and the third caravan at the appeal site would also allow for his mother-in-law to reside close by.

Background

6. The appeal site lies within a rural setting, although there are some examples of small scale sporadic development along White Cross Road. The site is set immediately south of an existing permitted travellers' site of some 9 plots, known as Narrabeen Park. The new development would be reached via a spur off an existing relatively narrow accessway off White Cross Road, running to the side of the existing travellers' site. The appeal site would extend to a point close to the public right of way (PROW) footpath which runs alongside the Grunty Fen Catchwater drain (GFCD), effectively a ditch which runs east-west beyond the site.
7. Immediately west of the Narrabeen Park site is a piece of land which has planning permission, granted in 2007, as a showman's yard. At my site visit I noted that it is being haphazardly used for storage purposes in this regard. There is also a small piece of land immediately to the east of Narrabeen Park which is currently being used unlawfully as a travellers site.
8. The site lies outside the nearby residential settlement of Wilburton which is reached via White Cross Road, travelling westwards. En route I noticed two small traveller sites along Station Road.

Main Issues

9. These are whether the proposal represents an acceptable form of development having regard to the following matters:
 - national policy, and the objectives of the development plan in respect of gypsy and traveller accommodation; and
 - the effect on the character and appearance of the surrounding area.

Reasons

Policy matters

10. National policy is contained in the government's Planning Policy for Traveller Sites, 2015 (PPTS) which states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development. In addition, Councils should very strictly limit new traveller site developments in the open countryside that is away from existing settlements.
11. Policy B of the PPTS says that local planning authorities, in producing their Local Plan, should identify and update annually, a supply of specific deliverable traveller sites, sufficient to provide five years' worth of sites against their locally set targets. In this context 'deliverable' means sites that are available now, offering a suitable location for the development.
12. In the above connection, Policy H of the PPTS says that Councils should, amongst other things, consider the level of need for additional gypsy and traveller accommodation and the availability of alternative accommodation.

13. Policy HOU 9 of the East Cambridgeshire Local Plan (LP) says that the Council will make provision for Gypsy, Traveller and Travelling Showpeople sites to meet identified needs. Amongst other things it also requires that there is no significant adverse impact on the character and appearance of the countryside and the setting of existing settlements, and also that the scale of the proposal is not disproportionate to the size of the nearest settlement and the availability of community facilities and infrastructure.
14. The LP identified a need for 38 permanent pitches between 2011 and 2031 which, in taking into account sites granted permission since 2011, gave a residual need for 16 pitches. The LP allocated 4 such pitches.
15. In 2016 the Council commissioned a Gypsy and Traveller Accommodation Assessment to inform a Local Plan Review. Published in October that year it concluded that there was no need for any additional pitches in the district for gypsy & traveller households that meet the 2015 PPPTS definition, a need of up to 40 additional pitches for those households that may meet the new definition (although it is indicated that this might be considerably less), and a need for 10 additional pitches for households which do not meet the new definition.
16. The Council, in its case report for the application at appeal, indicates that as there is a very low known need for additional gypsy & traveller pitches the issue of 'need' is afforded very little weight in the determination of the application. The point is then made that, as it is assumed there is likely to be an 'unknown need' for pitches, this should be afforded weight, especially in the context of the very limited number of allocated sites. Accordingly, the report acknowledges that the proposal for 3 additional pitches, with potential occupiers, adds weight to the unknown need.
17. The appellant, in estimating a need on the basis of the information available, has, identified a requirement for 54 pitches by 2022, and a further need for 85 pitches until 2031. Whilst the appellant is of the view that the GTAA has identified a level of need too low to satisfy the reality of the situation the Council stresses that the situation, given the acknowledged unknown need, is particularly uncertain, and each case should be dealt with on its own merits.
18. The appellant drew my attention to what he considers to be errors in the GTAA methodology which, if so, will have resulted in a significant underestimation of need. These include inaccuracies in recording the number of households in the district with planning permission at the base date, the belief that households were not accurately identified that were doubled up, concealed or over-crowded, and a failure to establish an accurate number of gypsies living in bricks & mortar houses who would instead prefer to be resident in mobile-homes. The Council's witness, when faced with these assertions, did not convincingly counter the claims due to a clear lack of empirical evidence and detail available.
19. It seems to me, from the Council's evidence and the reference to 'unknown need', there is a strong likelihood that the GTAA has underestimated the local need for new sites. The Council is unable to provide any appreciable degree of certainty as to what the actual current need is for pitches for both travellers that meet, and do not meet, the PPTS definition. I have not been presented with any details to suggest that the Council has a 5 year supply of deliverable travellers' sites and, accordingly, no alternative sites exist.

20. In this context the objective of LP policy HOU9 to make provision to meet identified needs, cannot be effectively implemented. All these factors compound to indicate a failure of policy.
21. In the absence of any figures, backed up by evidence, to suggest otherwise, and the fact that the 2016 GTAA has yet to be formally updated I give greater weight to the appellant's case and his estimation as to the requirement. Accordingly, I find that the GTAA is likely working to a lower figure than is required to meet the actual need for sites in the district.
22. I conclude that the absence of a 5 year supply of sites and an apparent unmet need for gypsy & traveller sites within East Cambridgeshire district are matters to which I afford considerable weight.

Character and appearance

23. LP policy HOU9 says that proposals for gypsy and traveller accommodation should meet a number of criteria including a requirement that there should be no adverse effect on the character and appearance of the countryside and the setting of settlements. This is a similar requirement to that of LP policy ENV1 which is directly concerned with landscape character. In this connection policy HOU9 also requires that the scale of the development should not be disproportionate to the size of the nearest settlement, which reflects the advice in paragraph 25 of the PPTS.
24. The Council's first Reason for Refusal refers to the proposed development creating a noticeable visual disturbance in the landscape that would be detrimental to the area's character. The Council makes the point that, being located to the rear of the Narrabeen park site, the proposed development would project beyond the "established" building line" of existing development off White Cross Road. However, looking across the field to the west of the site there is a scattering of what appears to be old farm buildings. Admittedly, Narrabeen Park and the adjacent showman's yard do not project beyond a roughly similar point, but this considered building line, although constrained by close-boarded fencing, is not inviolate. Indeed, in the wider contextual setting, some sporadic development closer to GFCD is evident.
25. Visible from White Cross Road, the Narrabeen Park travellers site is seen as a well laid-out development which is in contrast to the random storage of vehicles and paraphernalia within the 'showman's yard which is located on the opposite side of the accessway that would serve the appeal site. Given that the site lies directly to the rear of Narrabeen Park it would not be seen from White Cross Road.
26. Travelling eastwards along White Cross Road it soon reaches a T junction with Broad Baulk. This road passes over GFCD and, following my site visit, when looking back westwards from this point along the path of the drain the appeal site could not be seen, due to the lie of the land and significant tree cover. I acknowledge that during the winter months, when the trees are bare, glimpses of the site might be possible, but these would be limited. Close by, at its southern end, Broad Baulk reaches its junction with the heavily trafficked Ely Road (the A10) from where the developed sites set off the south side of White Cross road site cannot be seen at all.

27. After my site visit I also observed that the travellers sites set back off nearby Station Road which, similar to Narrabeen Park, appeared well laid out. In the circumstances I see no reason why, if developed as proposed, the appeal site would not be similarly laid out and landscaped to accord with the advice in paragraph 26 of the PPTS.
28. The proposal would amount to a planned form of encroachment into the land adjacent to the GFCD which does not in itself constitute a desirable development. However, I consider that, in the context of the adjacent developments, the impact of this relatively small piece of land being developed on the landscape would be minimal. Although the site's southern boundary would run close to the PROW, it would be buffered and screened. Accordingly, in this contextual setting the scale of the development would not run contrary to the relevant advice in paragraphs 14 and 25 of the PPTS.
29. The site is readily viewed from the adjacent sites and, with limited undue visual intrusion, I conclude that the development would not result in any significant adverse impact to the character and appearance of the surrounding rural area. Accordingly, I find that the objectives and requirements of LP policies HOU9 and ENV1 would not be conflicted by the proposal.

Other considerations

Personal circumstances

30. A settled base would be in the best interests of the children, securing access to medical facilities and education which are difficult to achieve by the roadside without a fixed address. The best interests of the children, that is the need to safeguard and promote their welfare, are a primary consideration, particularly as their education would be likely to be interrupted if the family were forced to move from the site. Further, the accessibility to health care that a settled base secures is a benefit to the families as a whole.
31. Accommodation by way of a settled base, rather than a roadside existence, can only be beneficial, and I consider that the development would provide suitable accommodation consistent with this. The best interests of the child must be afforded substantial weight.

Accessibility

32. The Council, in its case report, comments that although the site lies outside of the residential settlement of Wilburton it is within a settled community of travellers along White Cross Road. There are few facilities in Walburton, although there is an existing local primary school. Further, nearby Stretham also has a primary school.
33. Broad Baulk's junction with Ely Road is situated some 4 minutes from the appeal site when travelling by car. From this point Ely, the main market town in East Cambs, where many shops and community facilities are present, can be reached in approximately 7 minutes.
34. The Council's representations suggest that the appeal scheme does not represent sustainable development, and it is clear to me that there is heavy reliance on the private car in the local area. However, the site is in reasonable proximity to Ely and I am satisfied that the appeal site's location is consistent

with the policy HOU9 requirement that adequate schools, shops and other community facilities are within "reasonable travelling distance".

35. On balance, I consider that the proposal would not conflict with the relevant advice on this issue in paragraph 25 of the PPTS.

Other representations

36. I have had regard to the representations received from interested parties, including those from Wilburton Parish Council and the Cambridge Ramblers Group. The Parish Council has raised concerns regarding the number of travellers sites in Wilburton, the means of sewage disposal, and also the possibility of day rooms being used as additional residential units, whereas the Ramblers Group points out that development must not obstruct the public footpath which runs alongside the GFCD.
37. The initial objections by both Cambridgeshire County Council and the Internal Drainage Board have been withdrawn subject to a suitably worded condition being imposed in this regard.

Planning Balance

38. The proposal would contribute to meeting an un-met local need for gypsy and traveller accommodation. The appellant has also demonstrated that personal circumstances are such that a settled base would be in the best interests of the children present and beneficial to the families as a whole. No alternative accommodation has been identified. As described, there has also been a failure of policy working against the objectives of LP policy HOU9. These are matters to which I afford significant weight.
39. The site is both deliverable and developable and is of a scale appropriate to its particular setting. It is also in proximity to other traveller sites in the locality. The site is reasonably close to two local primary schools, and the market town of Ely, although there will inevitably be heavy reliance on the private motor vehicle.
40. Drawing no 18_922_033 Rev C which indicates the intended site layout shows the boundary of Plot 3 to be distanced at an average of 4m from the Grunty Fen Catchwater Drain. However, given the required minimum 9m buffer the three plots will need to be repositioned slightly towards the northern boundary of the site, and the proposed planting along the southern boundary relocated, accordingly. The site plan shows there is sufficient space to allow for the layout to be altered and my site visit observations confirmed this.
41. I find that the proposed development is in accordance with the PPTS and, given the particular circumstances, it is consistent with the aims and objectives of LP policies HOU9 and ENV1.

Conclusion and Conditions

42. For the above reasons I conclude that the appeal should be allowed and planning permission granted. Given my findings I see no need for a personal permission.
43. I have had regard to the conditions agreed by both main parties and advice within the planning practice guidance. I consider that the following conditions are both reasonable and necessary in the circumstances.

44. As the site is in the countryside where development is restricted, it is necessary to limit occupation to gypsies and travellers. To safeguard the character and appearance of the area the number and type of caravans should be specified, and a site development scheme should be submitted for approval. This should identify the position of areas for parking, planting and landscaping, hedgerows to be retained, boundary treatment, details of intended biodiversity improvements, permeable surfacing and any gate installation. The scheme's approval will also allow for the three plots to be repositioned, as mentioned.
45. Notwithstanding the site layout and planting shown on drawing no 18_922_03 Rev C it will, though, be a conditional requirement that a clear 9m deep buffer be retained from the GFCD to the boundary of the site.
46. Also, in the interests of safeguarding local rural character, any external lighting scheme should be submitted for approval, and no commercial activities or parking of vehicles over 3.5 tonnes should take place on the land.
47. The need for a pre-commencement condition requiring details of surface and foul water drainage to be submitted for approval was agreed by the appellant, and I consider that a condition relating to possible land contamination should also be imposed.

Timothy C King

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. 18_922_001 Rev A, 18_922_002 Rev A, 18_922_03 Rev C (subject to modification), 18_922_04 and 18_922_005.
- 3) No development shall take place until a site development scheme has been submitted to, and approved in writing by, the local planning authority. Notwithstanding the proposed layout shown on drawing no 18_922_03 Rev C the scheme shall show:
 - a) a buffer of not less than 9m from the Grunty Fen Catchwater drain, within which no structure shall be erected or trees planted without the prior consent of the Internal Drainage Board.
 - b) details of landscaping, planting and boundary treatments, including a programme for their implementation;
 - c) details of the existing hedgerows to be retained, and any proposed for removal;
 - d) details of a scheme for biodiversity improvements;
 - e) details of all hardstanding to be laid, and their permeability;
 - f) details of any gate or gates to be installed in proximity to the point of vehicular access;
 - g) details of the hard surface areas, including turning and parking space.

The development shall be carried out in strict accordance with the approved site development scheme and shall be retained as such thereafter.

- 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 three static caravans and three touring caravans shall be stationed on the site at any one time.
- 6) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) No commercial activities shall take place on the land, including the storage of materials.
- 8) No external lighting shall be installed at the site, other than in accordance with a scheme, including details of the position, height and type of lights, which has been submitted to and agreed in writing

by the local planning authority.

- 9) The proposed access shall be laid out in accordance with those details shown on drawing no 18_922_04, and thereafter retained in perpetuity;
- 10) No development shall take place until detailed schemes for the foul and surface water drainage of the site have been submitted to, and approved in writing by, the local planning authority. The approved foul and surface water drainage schemes shall be implemented prior to the first occupation of the site, and they shall be retained thereafter.
- 11) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

APPEARANCES

For the Appellant

Matthew Green Agent for the appellant

James Douglas Appellant

For the Council

Anne James Planning Officer, East Cambridgeshire District Council

Other Interested Parties

Ricky Bull

James Brede

Documents produced at the Hearing

1. Council's notification letters of appeal and the Hearing event.
2. Statement of Common Ground