
Appeal Decision

Hearing held on 20 September 2022

Site visit made on 20 September 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/M3645/W/22/3296204

Beechfield, Moats Lane, South Nutfield RH1 5PF

- 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 Billy Reading against the decision of Tandridge District Council.
 - The application Ref TA/2021/1285, dated 12 July 2021, was refused by notice dated 4 November 2021.
 - The development proposed is the use of land as a private gypsy and traveller caravan site consisting of 2 pitches.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land as a private gypsy and traveller caravan site consisting of 2 pitches (1 pitch retrospective) at Beechfield, Moats Lane RH1 5PF in accordance with the terms of the application, Ref TA/2021/1285, dated 12 July 2021, subject to the conditions in the attached schedule which includes a limitation on the occupation of the site to Mr Billy Reading Junior and Miss Jo Jo Reading and their resident dependants.

Preliminary Matters

2. The description of development found on the planning application form related to 4 pitches with 1 of those retrospective. However, during the planning application, this description of development was amended to 2 pitches. I have considered the appeal on this basis but omitted reference to a pitch being retrospective as the pitch that I found on site does not accord with the size and layout detailed on the submitted Site Plan. Nor does the boundary treatment erected on site.
3. The appellant and his family comprises of the appellant and his wife and two adult aged children (Mr Billy Reading Junior and Miss Jo Jo Reading) and Miss Reading's child. Each are Romany Gypsies, a matter not disputed by the Council. The appellant lives on the existing gypsy/traveller site to the south of appeal site. The intended occupants of the pitches subject of this appeal are his son and daughter, who have now come of age. Both children, now adults, were referred to as being resident dependent children in condition no. 1 imposed on planning permission Ref: TA/2018/1139 which relates to the existing site.
4. Following oral evidence provided by Mr Reading Junior at the Hearing, the Council accepted that he accords with the definition for planning purposes of gypsies and travellers as set out in Annex 1 of the Planning policy for traveller sites (PPTS). From what I heard; I do not disagree. Dispute, however, remains

about whether Miss Reading falls within the PPTS's definition of gypsy and traveller. The dispute does not extend to Mr or Mrs Reading as they are occupants of the existing site, but the interaction between them and Miss Reading is important in this case.

5. Miss Reading is presently single and does not work or travel for work because she is raising a baby and helping her mother with preparing food, shopping or other day-to-day tasks due to Mrs Reading's health conditions. Although Miss Reading is not a registered carer, Mrs Reading explained orally that she relies upon her given that Mr Reading Senior works during the week locally and leads a nomadic habit of life that involves travelling to various parts of the country for work. I heard that both women live together for these reasons. I also recognise that their individual health and well-being along with the child's would benefit from interaction and support from each another.
6. Written submissions stated that the baby's father was present, but this is no longer the case. As a result of this and the help provided by Miss Reading to her mother, she is financially dependent upon the appellant, her father. This situation may change in the future, but I consider that Mrs Reading is currently dependent on Miss Reading, who in turn is, at present, dependent on the appellant for his support. On current evidence, I consider that Miss Reading accords with the PPTS definition.

Main Issues

7. The main issues in this case are:
 - a) whether the proposal is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - b) the effect of the proposal on the openness of the Green Belt;
 - c) the effect of the proposal on the purposes of including the land within the Green Belt;
 - d) the effect of the proposal on the character and appearance of the area; and
 - e) if the development is inappropriate, 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.

Reason

Whether inappropriate development

8. The appeal site lies in the Green Belt. Paragraph 16 of the PPTS states that traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Therefore, the use of the land for the 2 pitches would be harmful to the Green Belt by definition and this harm carries substantial weight.
9. However, even if I am wrong about Miss Reading and the PPTS definition, the appellant accepts that this pitch would be inappropriate development in the Green Belt having regard to the Framework. Therefore, either way, the proposal amounts to inappropriate development in the Green Belt having regard to Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014 – 2029 (Local Plan), the Framework and the PPTS.

Openness

10. 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.
11. The appeal site is part of the countryside to the north of an existing gypsy / traveller site with a large former complex of stable buildings to the west. It includes a paddock, and it is enclosed by fencing, trees and shrubs or an earth bund. To the south of the appeal site is a small ribbon of mixed development on the north side of Moats Lane. The M23 motorway is to the east.
12. Openness has a visual and a spatial dimension. The proposed development would urbanise the land even though it would adjoin the existing gypsy and traveller site and largely be enclosed from view. It was previously free from development. The stationing of mobile homes and tourers, the formation of an extended access, the parking of vehicles on large areas of hardstanding, the enclosure of some of the site boundaries and the introduction of domestic paraphernalia linked to the use, would result in a spatial and visual loss of openness. The effect would be moderate as the development would not be widely seen from other public viewpoints in the area and views would be glimpsed and limited to along the driveway from Moats Lane whether the entrance gates are open or not.
13. On this issue, I conclude that the proposed development would result in a moderate loss of openness of the Green Belt.

Purposes

14. Although the development proposed maybe the minimum necessary to provide the proposed pitches, the main parties agree that the appeal scheme would result in encroachment of the countryside. I agree as the proposal would result in structures, hardstanding and activity associated with the use on land where there was none before. The effect would be limited due to the site's enclosure and existing neighbouring development, but I conclude that the proposal would conflict with the purposes of including the land within the Green Belt.

Character and appearance

15. The appeal site has an open character and appearance that is contained by fencing, adjoining development or by established trees and shrubs that limit its contribution to the wider understanding of the site's location in the open countryside. From public roads, there are limited opportunities to view the site even from the bridge over the M23 motorway which provides an elevated vantage point. Hence, the site is well contained by existing development and vegetation, and it would appear, when viewed from Moats Lane opposite the site entrance, as an extension to the existing site next to the road. Whilst the proposal would add to the quantum of development on the land, the proposed layout would mean that both pitches would be next to and tucked in behind the existing pitch to the south of the appeal site. The size of each pitch would be proportionate to the use whilst allowing for a touring caravan and vehicles to be stationed on it whilst enabling turning facilities and amenity space. I heard about the Council's suggested alternate layout, but that is not before me.
16. I recognise that the proposal would change the character and appearance of the site and urbanise it. There is also tension between the form of development proposed and the high standard of design sought by Local Plan Policy DP7 and

Policy CSP 18 of the Tandridge District Core Strategy (CS) and CS Policy CSP 9 which requires development to not significantly harm the visual amenities and character of the area. However, I consider that the appeal scheme would strike a balance between the scale and layout of development and the site's local context, especially with a good part of the paddock being retained. Adding soft landscaping would help the proposed pitches assimilate into their environment.

17. I conclude that the proposal would not harm the character and appearance of the area and thus accord with CS Policies CSP 9 b) and CSP 18 and Local Plan Policy DP7. Jointly, these seek, among other things, development to integrate effectively with its surroundings and not significantly harm the visual amenities and character of the area by ensuring the number of pitches is appropriate to the site size and the availability of infrastructure and services.

Other considerations

Other policy considerations

18. Having regard to CS Policy CSP 9 and criterion c), d) and e), the scale of development proposed, the size of the site, provision of infrastructure, the existing access from Moats Lane and the site's relationship with neighbouring properties leads me to consider the proposal would accord with these criteria. It follows that the proposal would also accord with Local Plan Policy DP7 and CS Policy CSP 18 as no unacceptable impacts would be caused on neighbouring occupants' living conditions.

The need for, and provision of, traveller sites

19. 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.
20. The Council published a Traveller Accommodation Assessment (GTAA) in 2017. This updated an earlier GTAA. The 2017 GTAA is being used as part of the evidence base for the emerging Tandridge District Council Our Local Plan: 2033 (emerging plan). The Examining Inspector has opined that the approach in the emerging plan to meeting the needs of Gypsies and Travellers does not accord with the PPTS. He also indicates that the emerging plan does adequately address the need for further pitches identified in the GTAA in terms of those people for whom it was not possible to determine their travelling status (unknowns); or the needs of those Travellers who identify as cultural travellers whether they have Traveller status for the purposes of the PPTS or not.
21. It is not for a s78 appeal to determine what the need for pitches is in the district. That is for the emerging plan examination. However, the 2017 GTAA is the most recent assessment available notwithstanding its merits. Based on this, the Council say the GTAA identifies a need for 5 gypsy and traveller pitches between 2016 and 2021, with up to a further 15 pitches up to 2033 for unknown traveller households who may meet the PPTS definition. In short, there is a minimum need of 20 pitches between 2016 and 2033.
22. The Council contend that the need for 8 of those 15 pitches has only arisen from existing unauthorised pitches. That may be the case, but it suggests that there may be a need higher than the national average arising from unknowns. Most of the 11 pitches which have been granted permanent planning

permission in recent years relate to those unauthorised pitches. A new planning application is also to be submitted shortly following the lapse of a temporary permission in July 2022 for 3 pitches at the Hare and Hounds site.

23. However, only 5 pitches have been granted planning permission since the Beech Farm Road appeal decision which confirmed that the previous version of the GTAA identified a much higher need of 63 pitches between 2013 and 2028, with 48 of them being required in the first five-year period. It is of note that this appeal decision confirms that only 9 pitches were granted planning permission since the adoption of the CS with all of those in the year before that appeal decision was made. The difference in the assessed need in the GTAA's is surprising even with the definition change in the PPTS and the need is likely to be higher than that suggested by the 2017 GTAA. Even so, there is still an under supply of pitches in the district against that minimum need.

Alternative sites

24. I heard that the intended occupants have lived on sites in the wider area with other family members. However, both intended occupants have now come of age, so living with extended family members is no longer an option.
25. The appellant explained that existing sites within the district are either full and/or have waiting lists. Although there was no supporting substantive evidence, I have no reason to doubt that he has looked at other sites in the area for several years and that there are no known suitable alternative vacant pitches available in the district that the intended occupants could potentially use at the current time.
26. The Council is progressing further work on the emerging plan prior to the examination being re-opened by the Examining Inspector following his earlier advice and recommendations. As part of this body of work the Council is likely to propose extensions to four sites for gypsies and travellers to address the district's need. The merit of these is a matter for the local plan process, but the Council indicated that the extended sites would provide several extra pitches, albeit they, and any other future pitches in the district, are likely to also be within the Green Belt, as around 94% of the district lies in the Green Belt. There is no substantive evidence to suggest that any alternative site will be forthcoming within non-green belt locations.
27. The appellant stated that two of the potential sites being proposed would not be suitable for social cohesion reasons, but no compelling evidence was put by the appellant to explain why the other two sites could not be suitable alternatives, despite his wish for his children to live close to him. The Council is hoping to be able to adopt the emerging plan towards the end of 2023. Even if this did transpire, it would be some months after then that the pitches would start to be delivered on the ground, allowing for planning applications and/or appeals to be made and determined.

Whether the harm is clearly outweighed by other considerations

28. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Given the intended site occupiers are Romany Gypsies, they have a protected characteristic for the purposes of the PSED. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. In reaching my decision, 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.

29. The PPTS explains in paragraph 16 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. However, this does not mean that there will not be cases that do not amount to very special circumstances. Added to this, CS Policy CSP 9 sets out that unallocated sites within the Green Belt will only be acceptable where it can be demonstrated that very special circumstances exist, these may include the lack of alternative sites within non-green belt locations.
30. The proposal would result in substantial harm by reason of its inappropriateness and cause a moderate effect on the openness of the Green Belt and a limited impact on the purposes of including the land within the Green Belt. Together these matters carry substantial weight against the proposal. No harm would be caused by the proposal in terms of character and appearance. This matter carries neutral weight.
31. There is an identified need for sites within the district and there is no five-year supply of land for such sites. There are also no alternatives open to the intended occupants to move to regardless of the green belt designation. Hence, the only alternative open to them both would be to live on the roadside and forgo the benefit of a settled base, access to health care and support and interaction with their family. Added to this, specifically, Miss Reading and her child are dependent upon her father for the reasons set out earlier. They receive support from him and Mrs Reading, and Miss Reading provides support to Mrs Reading due to her personal circumstances. These matters weigh in favour of granting permission.
32. Taking all of these matters into consideration, I conclude that the identified harm that would arise from the proposed development outweighs the other considerations and indicates that a permanent permission should not be granted for the appeal scheme at this time.
33. However, it is necessary to consider whether the grant of a temporary planning permission would be justified. Typically, the lack of a five-year supply of land for traveller sites in the area is a significant material consideration when considering the grant of a temporary planning permission. However, the site's Green Belt location means that this is an exception to this stance. It is, nevertheless, a relevant consideration of considerable weight given that nearly all of the district is subject to the same designation. In this context, I attach substantial weight to the absence of alternative accommodation for the intended occupants, but especially insofar as Miss Reading and her young child.
34. If I were to dismiss the appeal, the outcome would be that the Council would commence enforcement proceedings. Whilst it was explained that dialogue would be held prior to any enforcement notice being served with a view to finding a suitable solution, equally there is no certainty given the stage and progress of the emerging plan that suitable alternatives would be found to avoid them living by the roadside. If the latter were to occur, this would represent a serious interference with the intended occupants and the young child's rights in respect of private and family life and the home (Article 8 of the HRA). There would also be interference with the Article 8 rights of Mrs Reading as a result of being away from Miss Reading and the support that she provides.

35. The emerging plan is progressing, but the Council's proposed approach to addressing the Examining Inspector's comments is yet to be scrutinised through the examination process. There must also be a period after the emerging plan is adopted to facilitate the delivery of the proposed sites. The Council's two year period seems overly optimistic at this point in time whereas the appellant's longer suggestion of just over three years (December 2025) would seem more likely. It would enable all concerned with a suitable period of time whereby: a settled base is secured for the intended occupants and the young child, who would not then be roadside; for the proposed sites in the emerging plan to be examined and potentially come forward; and allow the current personal circumstances of the family to be reviewed.
36. Restoring the site to its previous condition as a paddock at the end of the temporary period would help mitigate the Green Belt harm as the small-scale nature of the proposal means that it could easily be removed at the end of this period. It would not stop Green Belt harm from arising in the meantime.
37. In my view, a permission for a limited period would be a proportionate approach to the legitimate aim of protecting the environment, whilst allowing potential sites to meet the need to be examined and allocated through the development plan process, and not on an ad hoc basis. Granting such a permission would have no greater impact on the appellant, his wife or the intended occupants and the child than would be necessary to address the wider public interest.
38. For the reasons set out, I consider that the appropriate balance would be struck between the rights of the individuals and the protection of matters of acknowledged public interest by the grant of a temporary planning permission until the end of 2025, subject to appropriate conditions, such that the action would not be disproportionate and would not result in a violation of the rights of the individuals concerned. On this basis, the proposal would accord with CS Policy CSP 9 a) and Local Plan Policy DP10.

Conditions

39. I have had regard to the suggested list of planning conditions provided by the main parties in the SoCG and their comments on them made at the Hearing. I have amended or combined some of those conditions in the interests of satisfying the tests set out in Framework.
40. In the interests of certainty, an approved plans condition is necessary. Given my findings about the intended occupants and their accordance with the PPTS definition, a condition to tie the occupation of the land to gypsies and travellers is necessary. Moreover, conditions are necessary to limit the occupancy of the land until the end of 2025 for the avoidance of doubt in light of the intended occupants' circumstances and the progress of the emerging plan. I have also imposed conditions, in the interests of certainty and the character and appearance of the area, to control: the number and type of caravans on the pitches; the implementation and maintenance of a site development scheme; to prevent other buildings, fences or structures being erected on the land; and to prevent commercial activities and the parking of heavy vehicles. In the interests of the character and appearance of the area, a condition is necessary so that the land is restored to its prior condition at the end of the time period.

Conclusion

41. For the reasons given above, relevant considerations indicate that planning

permission should be granted on a temporary basis for development that is in accordance with the development plan as a whole. I conclude that a case has been made, in respect of Mr Reading Junior and Miss Reading, to clearly outweigh the harm to the Green Belt, thereby justifying the proposal on the basis of very special circumstances.

42. I therefore conclude that the appeal should be allowed on this basis.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

1. The occupation of the site hereby permitted shall be carried on only by Mr Billy Reading Junior and Miss Jo Jo Reading and their resident dependants and shall be for a limited period until the end of 31 December 2025 starting from the date of this decision, or the period during which the land is occupied by them, whichever is the shorter.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Plan 001; Amenity Building, Plan 002; and Site Layout Plan 003.
3. When the land ceases to be occupied by those named in condition 1 above, or at the end of 31 December 2025, 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 by Annex 1 of the Planning Policy for Traveller Sites published in August 2015 or its equivalent in replacement national policy and not as a transit site or as a temporary stopping place.
5. No more than two pitches for gypsy/traveller's accommodation shall be created on the site with each pitch containing no more than one mobile home and one touring caravan at any one time as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.
6. The use for the stationing of a mobile home and a touring caravan hereby permitted shall cease and any associated buildings, roads, hardstanding, other structures and domestic paraphernalia brought on the land, or works undertaken to it in connection with the use hereby permitted shall be removed and the land restored to a condition suitable for re-use as open grassland within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) within 3 months of the date of this decision a Site Development Scheme shall be submitted for the written approval of the Local Planning Authority showing details of the:
 - a) means of foul and surface water drainage of the site;
 - b) facilities for the storage and collection of refuse and waste;

- c) siting, scale and appearance of any day room or utility room;
- d) external lighting;
- e) areas of the site to be reserved solely for the parking or turning of vehicles including details of the layout of the parking area or areas;
- f) details of boundary treatment;
- g) details of a scheme of landscaping, to include details of soft and hard landscaping within the site;
- h) a plan showing how the land would be restored to open grassland either in the default of this condition or as required by condition 3; and
- j) a timetable for the implementation of a) to h) above;

ii) within 6 months of the date of this decision the details to be submitted in i) above shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the details, or fail to give a decision within that 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 details shall have been approved by the Secretary of State;

iv) the approved details shall have been carried out and completed in accordance with the approved timetable arising as appropriate from i) to iii) above.

- 7. No buildings, fences or other structures shall be erected within any part of the site or otherwise placed on the land other than in accordance with the details shown on the approved drawings or agreed pursuant to a condition attached to this permission. The remaining areas of the site shall be kept clear of buildings, fences or other structures at all times.
- 8. No commercial activities shall take place on the land, including the storage of materials, plant or equipment and no vehicles over 3.5 tonnes unladen weight shall be stationed, stored or otherwise parked on the site at any time.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

FOR THE APPELLANT:

Phil Rowe BA Hons BTP
Mr Billy Reading Senior
Mrs Jo Jo Reading
Mr Billy Reading Junior
Miss Jo Jo Reading

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Cliff Thurlow

Tandridge District Council