
Appeal Decision

Hearing Held on 11 October 2022

Site visit made on 11 October 2022

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/B1930/W/20/3259165

Land rear of Ardens Rise, House Lane, St Albans, Herts., AL4 9HE.

- 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 M Connors against the decision of St Albans City & District Council.
 - The application Ref. 5/19/2463, dated 27 September 2019, was refused by notice dated 10 March 2020.
 - The development proposed is the change of use of land to use as a residential caravan site for 5 Gypsy families each with one static caravan/mobile home, including laying of a hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to use as a residential caravan site for 5 Gypsy families each with one static caravan/mobile home, including laying of a hardstanding at Land rear of Ardens Rise, House Lane, St Albans, Herts., AL4 9HE, in accordance with the terms of the application, Ref 5/19/2463, dated 27 September 2019, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Main Issues

2. The appellant agrees that the proposal constitutes 'inappropriate development' in the Green Belt as set out in paragraph 149 and 150 of the National Planning Policy Framework (the Framework). Within this context the main issues are:
 - The effect on the openness of the Green Belt;
 - The need for traveller sites locally and whether the Council can demonstrate a five year supply of new sites;
 - The availability of alternative sites;
 - 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.

Reasons

Background

3. The appeal site lies on the eastern edge of St Albans where House Lane separates the residential development on the western side with the countryside to the east which is also designated as Metropolitan Green Belt. 'Ardens Rise' is a large detached house in the open countryside area which adjoins another property 'Woodstock' used as a nursery. The appeal site itself lies to the rear of Ardens Rise. This property also contains a residential caravan site (see planning history below) and access to the appeal site would be obtained through the grounds of Arden rise and the existing caravan site. At the time of my visit the appeal site was occupied by 5 residential static caravans although not in the layout shown on the submitted site plan.
4. The planning history of the adjoining land is complex but relevant to the appeal. In summary, following a series of temporary permissions (including being granted on appeal) planning permission has been granted for 6 pitches for gypsies and travellers (see appeal APP/B1930/W/16/3147393).

Policy context

5. The development plan includes saved policies in the St Albans District Local Plan Review 1994 (LPR); together with the Sandridge Neighbourhood Plan (SNP) made in July 2021.
6. An emerging new local plan was Examined in 2019 but following this the Examining Inspectors recommended that the Council withdraw the Plan. The Council is preparing a new local plan which the current Local Development Scheme advises will be adopted by the end of 2023 following Submission and Examination earlier that year. However, I agree with Mr Brown's view that this timescale appears very optimistic.
7. In terms of the most relevant policies in the development plan, although Policy 1 of the LPR is of some age and Policy D2 of the SNP was made before the most recent publication of the Framework, it is common ground that these policies are broadly in accordance with the Framework, particularly paragraphs 149 and 150 on what constitutes 'inappropriate development' in the Green Belt, and I agree. They should therefore be given full weight.
8. Notwithstanding the issue of the effect on the Green Belt the Council does not raise objections to the proposal regarding landscape impact or highway aspects.

Effect on openness

9. In terms of the effect on the openness of the Green Belt this has both visual and spatial dimensions. At the site visit I considered these effects from around the site itself; the public footpath which enters House Lane adjoining Ardens Rise; the general site frontage; and Cooper's Green Lane further to the east. I have also considered the proposal in respect to the lawful use of the land as a field or paddock, similar to that remainder of the appellant's other land which rises to the north-east, rather than the present residential caravan site.
10. There is an existing field hedge along the north-western boundary of the appeal site and a high hedge of evergreen trees along part of the southern

western boundary. To the south-east this boundary is mainly open but there are individual trees and woodland on the adjoining land to the south-east which result in the proposed caravans on the submitted layout being well screened in the landscape despite their presence on gently rising land. Viewed from House Lane the existing house, together with the copse of woodland along the frontage, would effectively screen the proposed caravans from the public realm. Only the tops of the roofs of the caravans would be glimpsed from the public footpath through the existing hedgerows. From further afield along House Lane and Coopers Green Lane I am satisfied that the proposed additional caravans site would not be visible in the wider landscape. Overall I find that the proposal would have very limited visual impact on the openness of the local part of the Green Belt.

11. In terms of the spatial aspect, the comparison is with the lawful use as a paddock. While the proposal does not involve operational development other than the laying of the hardstanding, the presence of the static (and touring caravans) the larger of which are likely to have the presence of a small bungalow as currently on site, together with the parking of ancillary vehicles and residential paraphernalia, would materially change the openness of the land. Given the scale and appearance of these aspects of the use I find that the proposal would result in a moderate adverse effect on the openness of the Green Belt in spatial terms and contribute to urban sprawl but in a localised and limited way.
12. Nevertheless this finding means that the proposal conflicts with a fundamental aim of Green Belt policy set out in section 13 of the Framework.

Need and supply of sites

13. The Gypsy and Traveller Accommodation Needs Assessment (Jan 2019) (GTANA) identifies a need for within the district of 72 permanent gypsy and traveller pitches of which 44 pitches are needed between 2018-2023 and 10 pitches between 2023-2028. The Council accepts that very limited progress has been made towards meeting this need with only one planning permission being granted for a permanent pitch in this period and 9 temporary pitches granted on appeal at Nuckies Farm and at Tullochside Farm. Given that the rolling five year supply should be in the region of 48 pitches there is a substantial deficiency of provision at the moment. I attach great weight to this failure to meet the requirements of Policy B the PPTS.

Availability of alternative sites

14. It is common ground between the parties that there are no long term vacancies on existing publicly provided sites within the district and no yet 'unbuilt' sites available either. Mr Brown also submitted that the five families who intended to occupy the appeal site could not 'double up' on the adjacent lawful site as there was not sufficient space available to accommodate static units and this would also cause severe overcrowding.
15. In terms of the plan-led system, I understand that there have been no specific allocations of land for gypsy and traveller sites since the adoption of the LPR in 1994. Mr Ozier for the Council suggested that provision for gypsy and traveller sites may come forward as part of large scale development sites released from the Green Belt in the emerging local plan but it appears to me that this is unlikely to result in new sites on the ground for at least four years.

16. Given this lack of alternative sites now or in the short to medium term I have no reason to doubt the appellant's submission that if the appeal is dismissed it would be very likely to result in the 5 families losing their present homes on the land and being faced with a life on the roadside.

Personal circumstances and best interests of children

17. The appellant and his agent updated the relevant personal circumstances as set out in the original appeal statement. In terms of the families who would occupy the pitches they are all in the wider family group of Mr Connor who occupies Ardens Rise. The proposal would enable the close family ties and interdependency to continue where the different generations would be able to support each other, in particular with childcare and care for the more elderly. This would further the traditional gypsy and traveller way of life.
18. The details of the children were also updated. The intending families now have 12 children of which 6 are currently of school age. I was advised that they go to Sandridge School along with 12 children from the lawful sites. The appellant sees the continued schooling of the children as essential to their educational and social development and would help with their integration with the wider community. This would be very disrupted if the families were faced with a roadside existence. These are factors to which I attach substantial weight.

Planning and green belt balance

19. At the start of the planning balance I have borne in mind the requirements of the Public Sector Equality Duty and not placed any single planning aspect above the best interest of a child.
20. The site lies in the Green Belt and the proposed change of use constitutes 'inappropriate development' which would be harmful to the Green Belt, as described in paragraph 147 of the Framework, and should not be approved except in very special circumstances. Moreover the change of use would cause moderate harm to the openness of the Green Belt in spatial terms but little harm in visual terms. This means that the proposal conflicts with the relevant policies in the development plan and I have placed substantial weight on this harm and policy conflict.
21. To be balanced with this, it is clear that the Council cannot demonstrate anything close to an adequate supply of new gypsy and traveller sites at the moment to meet the requirements of government policy in the PPTS. There has been a clear failure in the plan-led system over many years to make provision for the identified needs of gypsies and travellers. As a consequence there are no other alternative sites suitable and available for the intended families to turn to. Moreover, it is also unlikely that new sites will come forward through the plan making system for some time. The Council also agrees that where new sites do come forward they are also likely to be in the current Green Belt which applies to all of the countryside outside of the main built up areas of the district.
22. The personal circumstances of the intended families support the development of further pitches as they have close family ties with people living on the adjacent lawful site where the children go to the local school. The same is proposed for the younger children at the appeal site and I have no doubt that the best interests of these children would be to continue attending the local

school for their individual educational and social development. Such development is unlikely to be achieved by the families having to vacate the site and move on to the roadside.

23. I have taken account of the guidance in the PPTS which advises in Policy E (paragraph 16 and elsewhere), that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm so as to establish very special circumstances. However, in this case the other factors in favour of the development so greatly outweigh the harm that I find that very special circumstances have been clearly demonstrated. The conflict with the development plan is outweighed by other considerations to the extent that planning permission should be granted.
24. I have considered whether this policy conflict and harm should only be accepted for a limited period with the grant of a temporary permission. However, in my mind there is considerable doubt over when and if lawful gypsy and traveller pitches will be established through the emerging local plan or by individual applications for private sites elsewhere in the Green Belt. Moreover a temporary permission is likely to result in uncertainty and disruption to the children's education and social development. A permanent permission is therefore justified.

Conditions

25. The Council recommends three conditions although at the hearing it was intimated that conditions similar to those imposed on appeal APP/B1930/W/16/3147393 should be considered appropriate.
26. A condition specifying the plans that are approved is necessary for clarity and I agree that a condition on requiring a scheme of landscaping and its implementation would help minimise the effect on the openness of the Green Belt, although the recommended condition will need to be modified to reflect that the application is retrospective. Conditions similar to Numbers 1, 4 and 7 of the above appeal relating to gypsy and traveller use, together with specifying the number of caravans and a restriction on vehicle size and commercial activities, are all reasonable and necessary and I will impose them. However the personal circumstances of the intended occupiers have not been a sole determining factor in this case therefore a personal occupancy condition is not reasonable or necessary.

Conclusion

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

David Murray

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Plan scale 1:500; Site Plan 1:2500 Received 1 Oct 2019 by St Albans City and District Council.
- 2) 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 (or its equivalent in replacement national policy).
- 3) No more than 10 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 5 shall be static caravans, shall be stationed on the site at any time
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) 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 three 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 scheme for the layout and landscaping of the site: including parking and amenity areas; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within nine months of the date of this decision the local planning authority refuse to approve the 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 scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

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.

APPEARANCES

FOR THE APPELLANT:

Mr Brown BA (Hons) Planning Consultant

Mr M Connors Appellant

Mrs Connors Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

Mr N Ozier BA (Hons) MRTPI Planning Consultant on behalf of St Albans City and District Council.

INTERESTED PERSONS:

Cllr L Kirby

DOCUMENTS HANDED IN AT THE HEARING

- 1 Signed statement of common Ground dated 10/11 October 2022.

End