



Appeal Decision

Hearing held on 20 September 2022

Site visit made on 20 September 2022

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/C1570/W/20/3263184

Land west of Chelmsford Road, Felsted, Chelmsford, Essex, CM6 3LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr M Connors against the decision of Uttlesford District Council.
 - The application Ref UTT/19/3091/FUL, dated 11 December 2019, was refused by notice dated 15 May 2020.
 - The development proposed is change of use of land to use as a residential gypsy caravan site for 5 gypsy families, each with two caravans, including laying of hardstanding, erection of 3 No. utility buildings and construction of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An agreed Statement of Common Ground (SoCG) was submitted by the main parties at the event. I have taken this into account in my decision.
3. The appellant confirmed at the hearing that the development is speculative. Personal circumstances are therefore not being relied on in support of the proposal.
4. The Uttlesford District Local Plan contains no policies relating to Gypsy and Traveller Accommodation. In the SoCG, the parties agreed that because the Local Plan contained no policies for the provision of Gypsy and traveller accommodation, it was out of date and non-compliant with up-to-date guidance in the National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS). Therefore, in accordance with paragraph 11d) of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The 'tilted balance' is therefore engaged.
5. The appeal site lies within the 'zone of influence' of the Blackwater Estuary Special Protection Area (SPA) and RAMSAR site. The Council's third reason for refusal relates to the lack of a mechanism to secure a financial contribution towards the mitigation and avoidance strategy for visitor management measures to safeguard and protect the SPA and Ramsar. Before the event, the appellant submitted a draft Unilateral Undertaking providing the required contribution. The Council confirmed that they were happy with the content of the undertaking and were no longer pursuing the third reason for refusal.

Whilst this is noted, as competent authority I must still undertake an Appropriate Assessment to ascertain whether or not the proposal would likely have any significant effects.

6. I accept that the development proposal would be likely to have limited effect on the integrity of the SPA through increased recreational disturbance, however in combination with other projects and developments in the area, those effects could be substantial.
7. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), provides a strategic approach to mitigation for Essex local authorities to comply with the Habitats Regulations. The accompanying Supplementary Planning Document (SPD) 2020, adopted by the Council, sets out a programme of mitigation measures that will be secured. These include the provision of information and education, fencing, waymarking, measures to control pedestrian, cycle and dog access, enforcement, habitat creation and ongoing monitoring. The SPD sets out a tariff per dwelling. The appellant provided a signed and dated Unilateral Undertaking after the hearing to provide the required contribution.
8. I am satisfied that any harm arising from the development in relation to the integrity of the SPA would be addressed. The proposals would therefore comply with saved Policy GEN7 of the Uttlesford Local Plan and section 15 of the Framework which seek to conserve and enhance the natural environment.

Main Issues

9. The main issues in this case are:
 - having regard to local and national development planning policy, whether the location of the proposal is appropriate, with particular regard to access to services and facilities;
 - the effect of the proposal on the character and appearance of the countryside;
 - whether a safe and suitable access can be achieved for all users;
 - whether other material considerations, including the general need for and supply of gypsy sites, outweighs any harm identified, such as to justify the development.

Reasons

10. The appeal site lies to the west of Chelmsford Road at the southern end of the hamlet of Causeway End, approximately 1.6 km from Felsted. It comprises arable farmland of around 0.5ha and forms part of a larger field. Millbanks Farm and Glandfield Farm lie to the north whilst two further dwellings lie to the south on the east side of Chelmsford Road.

Appropriate location

11. The site lies outside the development limits of Causeway End, Felsted, as defined in the Council's adopted Uttlesford Local Plan and is therefore located within the countryside. Saved Policy S7 of the seeks to protect the countryside for its own sake and states that planning permission will only be given for development that needs to take place there or is appropriate to a rural area.

12. Policy S7 predates the Framework, which takes a more positive approach towards development in the countryside. The appellant argues the policy should be given limited weight because it does not specifically mention Gypsy and Traveller sites. It is notable that the policy does not refer to types of development, rather it takes a more general approach to development in the countryside.
13. The policy is partially consistent with the Framework in that it allows for some development in the countryside whilst also seeking to protect it. I therefore take the view that it should attract moderate weight.
14. PPTS in paragraph 25 states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Importantly the PPTS does not restrict traveller site provision in the rural area. This is a point the Council accepted in their oral evidence. Gypsy and Traveller site provision would therefore in principle, be appropriate in a rural area. The proposal would therefore be in compliance with saved Policy S7.
15. There is agreement between the parties that the appeal site, whilst being outside Causeway End, is not isolated. The proposal would not dominate the nearest settled community and would not put undue pressure on local infrastructure.
16. The appeal site lies about 1.6 km from Felsted. Here local services including a post office, general store, pharmacy, doctors' surgery and public house can be accessed. There was discussion at the hearing about how long it would take to walk to the village to access the majority of its facilities. Walking this distance would take up to 30 minutes, depending on walking speed. I noted on my site visit that the route has no footways and is unlit. The road is subject to the national speed limit, has several bends and vehicles travel at speed. Anyone walking would need to use the grass verge for safety reasons. In winter months the verge may be muddy and would not be ideal for the less mobile or a parent with a child in a pushchair. There is a primary school in Felsted however this is to the eastern end of the village approximately 3km walk.
17. Having regard to the distances involved and the nature of the route, I conclude that walking would not be an attractive option and that occupants of the site would be likely to use the private car. I acknowledge that Felsted could be reached by cycling but again due to the nature of the road, the number of bends and traffic speeds, this may not be an option of choice for many.
18. In terms of public transport, I am advised that the nearest bus stop lies at the northern end of Chelmsford Road adjacent to Riche Close approximately 1.5 km away with just four buses a day running between Wethersfield and Chelmsford.
19. Paragraph 105 of the Framework recognises that the opportunities to maximise sustainable transport solutions will vary between rural and urban areas and this should be taken into account in decision making. Overall public transport is poor in this rural area and residents of the appeal site would be more likely to use the car to access higher order settlements. However, this degree of reliance on the private car is not uncommon in a rural area such as this and journeys to access day to day facilities would be short.

20. In summary, I conclude that the appeal site would form an acceptable location for gypsy and traveller accommodation with acceptable access to services and facilities. The proposal would therefore comply with the Framework, PPTS and saved Policy S7 of the Uttlesford Local Plan.

Character and appearance

21. Visually the appeal site is outside the settlement and being in agricultural use with mature hedgerow boundaries to Chelmsford Road has a distinct rural character. Causeway End itself is characterised by a ribbon of built development running north /south along the road. Residential properties comprise large, detached dwellings set in spacious plots with mature planting to their front gardens. This gives the settlement a verdant and semi-rural appearance.
22. The appeal proposal provides for 5 static mobile homes and 5 touring caravans sited around a short cul de sac. This density, layout and design with significant areas of hardstanding, would be inappropriate in this edge of settlement countryside location, urbanising this open and undeveloped site. Furthermore, the cul de sac layout would be at odds with the settlement pattern of Causeway End, with large houses in spacious landscaped plots in a linear form along Chelmsford Road.
23. The appeal proposal includes a belt of woodland planting to the road frontage as well as the provision of new boundary hedgerows to the southern and western site boundaries. Whilst this would assist to a degree to screen the site, the blocks of woodland planting proposed, would in my view not have a natural form or appearance and would look out of character with the more natural planting in the locality. I accept the appellant's argument that the purpose of landscaping is not to hide the development but to assimilate it into its surroundings. However, in this case, in my view the planting proposed would not achieve this.
24. In order to provide the necessary sight lines from the proposed access, the existing hedge would have to be removed and a new hedgerow provided set further back from the road. The grass verge in this location would be widened. I noted on my site visit that the grass verge along the road has a variable width such that in this respect the proposal would not cause harm to the character of the area, However the new hedgerow would take time to establish and grow in its new position. This would have an impact on the character of the road for a short period of time.
25. The Felsted Neighbourhood Plan in Policy ICH1, seeks to achieve high quality design and states that all development proposals should contribute positively to the character and heritage of the Parish and bring about enhancements to that character. It goes on to say that in countryside locations, development should provide a sensitive treatment of the rural edge, particularly around Felsted village, with regard to the impact on heritage assets and their setting including the surrounding landscape.
26. The appeal site occupies an edge of settlement location. Its layout, appearance and design would result in the proposal having a discordant appearance in this countryside area, failing to respect the setting of the settlement.

27. Given the above, I conclude that the appeal proposal would cause harm to the character and appearance of the area. It would be contrary to section 12 of the Framework, Local Plan saved Policies S7, GEN2 and Felsted Neighbourhood Plan Policies, CW1 and IH1 which seek to achieve a high-quality design, protecting and enhancing character and setting.

Highway safety

28. Access to the appeal site is proposed from a new access from Chelmsford Road. The road is subject to the national speed limit of 60 mile per hour. It is agreed between the parties that following a traffic survey undertaken in 2019 to inform a previous planning application on the site, the 85th percentile traffic speed on this road is 49 mph (79 Kmh) in both directions. It is also agreed that at that speed, following the guidance in Manual for Streets 2, the Design Manual for Road and Bridges parameters should be used for the calculation of Stopping Sight Distances (SSD). This results in a desirable SSD of 144 metres and an absolute minimum SSD of 111.39 metres.
29. The submitted plans illustrate that a sight line of 2.4 metres by 120 metres would be achievable through setting back and replanting the boundary hedgerow. This would just exceed the absolute minimum SSD requirement. However, the plan submitted does not illustrate the full extent of the sight line. The Highway Authority have expressed concern that the sight line is not achievable, as they have been unable to measure this on site due to the presence of the existing hedgerow. The agent confirmed at the hearing that the landowner of the field to the south has agreed to the hedge being set back.
30. At the event, a further plan was submitted, which formed part of a previous proposal for residential development¹ on the site, illustrating a sight line of 130 metres. This sight line would be below the desirable SSD but above the absolute minimum. The plan however is deficient in that it does not show the extent of the existing hedgerow or how it would be removed and set back.
31. Whilst an appropriate sight line at or above the absolute minimum SSD and at or below the desirable SSD, may be achievable, this has not been adequately demonstrated by the submitted plans and evidence.
32. At the site visit, the appellant paced out 130 metres to try to demonstrate the forward visibility of a vehicle travelling from the north, enabling the driver to see a vehicle waiting to turn right into the site. This was helpful as a broad indicator however it has not been confirmed by actual measurement or indicated on a plan.
33. No swept path analysis has been provided to demonstrate that vehicles leaving the site, particularly a vehicle pulling a caravan, can safely access and egress without crossing the centre line of the road. Whilst it may be achievable it has not been demonstrated on a plan. I accept that caravans leaving or entering the site would not be very frequent. However, bearing in mind the speed of the road and the position of bends on the approach to the site, this could potentially cause harm to highway safety.
34. Turning to pedestrian safety, I have already discussed above the difficulties for a pedestrian walking along Chelmsford Road, with no footways or lighting. Having regard to the traffic speeds on this road, and my experience on the site

¹ UTT/18/2960, Erection of 23 dwellings with internal roads and open play space.

visit, I share the concern of the highway authority that walking on this route is potentially hazardous. Due to the speeds on the road, cycling would also not be an attractive option.

35. There was discussion at the hearing of the need to reduce pedestrian vehicle conflict at the site entrance and to allow pedestrians to gain access to the verge in a safe manner. This is not illustrated on the submitted plans. An area of grass is shown either side of the access which could potentially be hardsurfaced to make such provision. A Grampian condition requiring the submission of a scheme and minor modification to the site access, could be imposed on any approval to address this matter.
36. Bringing all the above points together, I am not satisfied that a safe and suitable access to the site for all users can be achieved. Accordingly, the proposal would be contrary to paragraph 110b) of the Framework and saved Policy GEN1 of the Uttlesford Local Plan which seek to ensure that development does not compromise road safety and takes account of the needs of cyclists, pedestrians and all users.

Need and supply of gypsy sites

37. The Essex, Southend-on-Sea and Thurrock Gypsy and Traveller Accommodation Assessment (GTAA) 2018 found that there is no need for permanent pitches in the district during the period 2016-2033 for gypsies falling within the definition set out in Annex 1 to the PPTS. The GTAA does however consider that there is a need for 18 pitches over the same period for gypsies whose status is unknown or no longer fall within the definition.
38. The GTAA is now 4 years old. Its methodology is challenged by the appellant. I note the document was prepared on behalf of thirteen local authorities and I have no substantive evidence before me to suggest that it is flawed. Irrespective, the Council accept that it was now out of date and at the hearing the Council conceded that there was a need for Gypsy and Traveller provision in the District. I am advised that there is an existing gypsy site in Felsted providing 17 pitches which is thought to be fully occupied. There are also a number of private sites in the area, but these are unavailable to the appellant.
39. The fact that there is a need, yet there is no policy in the Local Plan, is a failure of local planning policy in the District. This need weighs in favour of the proposal.

Other Matters

40. Millbank Farmhouse to the north of the appeal site and Blackhorse Cottage to the south form Grade II listed buildings. I must therefore, under the statutory duty placed on me by section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 have special regard to the desirability of preserving the buildings or their setting or any of the features of special architectural or historic interests which they possess.
41. Millbank Farmhouse forms a timber frame and plastered 15/16th century building with later twentieth century additions. It includes an inscription on the bressummer stating 'George Boote made this house in 1598'. Its significance lies in its architectural and historic interest as a 16th century farmhouse and also its association to George Boote, a local carpenter and builder. The farmhouse has a number of curtilage buildings, a large garden which

contributes to its setting and extensive natural screening. I am satisfied that the appeal proposal would be sufficiently far south, to cause no harm to its setting.

42. Blackhorse cottage forms a 15th century timber framed and plastered thatched cottage with gabled dormer. Its significance also lies in its architectural and historic interest as a well-preserved 15th century cottage. It is located a distance to the south of the appeal site. Another residential property lies immediately to its north, within its immediate setting. Due to separation distances involved and the presence of the dwelling in between the listed building and the appeal site, the appeal proposal would cause no harm to its setting.
43. In summary I conclude that the appeal scheme would preserve the setting of the nearby listed buildings. The proposal would therefore comply with section 16 of the Framework, saved Policy GEN2 of the Uttlesford Local Plan and Policy ICH1 of the Felsted Neighbourhood Plan which seek to achieve high quality design and conserve and enhance the historic environment.

Planning Balance

44. I have found that the proposal would be harmful to the character and appearance of the countryside in conflict with the development plan. I attribute significant weight to this harm.
45. Furthermore, in terms of highway safety I am not satisfied that the proposal would provide a safe and suitable access. The harm to highway safety should be afforded substantial weight because of the dangers that could be caused.
46. The lack of harm to the setting of nearby listed buildings and the integrity of the Blackwater Estuary SPA form neutral factors in the planning balance.
47. In terms of matters in favour of the proposal, I have found that the site is in an acceptable location with access to services and facilities and that there is a need for gypsy and traveller accommodation in the District. These factors attract significant weight.
48. The appeal scheme is speculative in that there are no identified occupants at this stage. I cannot therefore consider the personal circumstances of the potential occupants and the need for a settled base in coming to my decision. However, bearing in mind the unmet need in the district and the fact that there are no sites allocated for gypsy and travellers in an adopted plan, as well as the lack of alternatives in the area, I give some weight, albeit limited, to the equality, human rights and best interests of the children benefits which flow from additional provision.
49. Overall, in the final balance I consider that the harm to the character and appearance of the countryside and the harm to highway safety, significantly and demonstrably outweigh the benefits when weighed against the Framework taken as a whole. The proposal conflicts with the development plan and does not form sustainable development in the terms set out in the Framework or the PPTS.

Conclusion

50. For the reasons given above and having regard to all other matters raised,

I conclude that the appeal should be dismissed.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Brown

Philip Brown Associates

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Brown

Development Manager

Katherine Wilkinson

Essex County Council Highways

INTERESTED PERSONS

Richard Freeman

Felsted Parish Council

DOCUMENTS SUBMITTED AT THE EVENT

1. Signed and dated Statement of Common Ground
2. Draft unsigned and undated Unilateral Undertaking
3. Plan showing 2.4 m by 130m visibility splay

DOCUMENTS SUBMITTED AFTER THE EVENT

1. Signed and dated Unilateral Undertaking