



Appeal Decision

Hearing held on 7 February 2023

Site visit made on 7 February 2023

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023

Appeal Ref: APP/M1595/W/20/3255502

Manor View, Southend Road, Corringham SS17 9EY

- 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 R Ward against the decision of Thurrock Borough Council.
 - The application Ref 20/00408/FUL, dated 27 March 2020, was refused by notice dated 26 June 2020.
 - The development proposed is for the use of land for a four pitch gypsy/traveller site with layout comprising the siting of six mobile homes, two touring caravans, one day room and a static caravan used as a day room.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for a four pitch gypsy/traveller site with layout comprising the siting of six mobile homes, two touring caravans, one day room and a static caravan used as a day room at Manor View, Southend Road, Corringham SS17 9EY in accordance with the terms of the application, Ref 20/00408/FUL, dated 27 March 2020, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The description of development is taken from the Appeal Form and Decision Notice because a revised description was agreed between the Council and the appellant. The application was determined on that basis, and I have determined the appeal on the same basis.

Main Issues

3. The development is the change of use of land to station caravans for residential occupation for a Gypsy and Traveller site, and the site is located in the Green Belt. Planning Policy for Traveller Sites (PPTS) (August 2015) states that Gypsy and Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Both parties agree that this is the case, having regard to the PPTS, National Planning Policy Framework (the Framework) and Policies CSSP4 and PMD6 of the Thurrock Core Strategy and Policies for Management of Development (January 2015) (the CS).
4. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Substantial weight is given to any harm to the Green Belt.

5. Therefore, the main issues are:

- i) The effect of the development on the openness and purposes of the Green Belt;
- ii) The effect of the development on the character and appearance of the area; and,
- iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Site and background

6. The site is located close to the urban edge of Basildon, near Corringham and the village of Fobbing, on the northern side of Southend Road. To the north east is the junction with the A13 (Five Bells Roundabout). The site sits within a cluster of other roadside developments, including dwellings, a petrol station, car wash and other commercial uses. The adjacent residential dwelling, Willow Cottage, is the last building in the group before there is a break in development to the west. There is a field and then the A13 to the north.
7. The site has direct gated access to Southend Road. Established landscaping, comprising tall hedgerows and trees screens the site from the road and surrounding vantage points, such that the site is barely noticeable apart from the break in landscaping for the access. Given the depth of the landscaping and the set back of the access, this is only visible when directly outside the site.
8. The proposal is for the use of the site as a Gypsy/Traveller site with 4 pitches, including the siting of 6 mobile homes, 2 touring caravans, one day room and a static caravan used as a day room. A 5 year temporary planning permission¹ was granted at appeal in July 2015, with the site being occupied since March 2013. This planning permission expired on 16 July 2020.
9. The adult occupants of the site have not changed from the previous appeal, and the applicant and his family are all Irish Travellers, which is agreed with the Council. They all have Gypsy status. The applicant and his family are:
 - Mr and Mrs R Ward and 3 children (only one child is under 18 years).
 - Mr J Ward, his partner and 5 children.
 - Mr and Mrs M Ward and 5 children.
 - Mr and Mrs M Ward Sr. and 2 grandchildren.

Reasons

Openness and purposes of the Green Belt

10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and permanence. One of the purposes is to assist in safeguarding the countryside from encroachment, and another is to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
11. The proposal is a permanent urbanisation and encroachment into what was previously undeveloped land. This takes the form of hardstanding, boundary

¹ APP/M1595/A/14/2217368

treatments and day rooms. The caravans, vehicles and activity on site through general day to day living and vehicular movements also have an effect upon the openness of the land. There is a modest spatial impact, and although well screened, a visual impact to a small extent.

12. However, I do not agree with the Council that the development would conflict with the one of the purposes of Green Belt in assisting in urban regeneration, by directing the development into the urban area. This is because many Gypsies and Travellers would be unable to locate in urban areas owing to their cultural needs and requirements of sites that are, for example, free of contamination, free of existing buildings and at a reasonable cost.
13. Notwithstanding, there would be a permanent reduction in openness and encroachment into the countryside. Given the scale of the proposal, existing landscaping and its location close to other existing developments in the Green Belt, the impact would be, at most, modest. Even so, this conflicts with Policies CSSP4 and PMD6 of the CS, which seek to maintain, protect and enhance the open character of the Green Belt.

Character and appearance

14. The Council assert there is harm to the rural character and appearance of the area. However, this alleged harm appears to be inextricably linked to the harm to openness, with the Council referring to the impact upon the rural character of the area from the built form as opposed to an undeveloped open site.
15. The impact upon character and appearance is a separate assessment to that of openness, and having regard to the mixed urbanised character of the roadside location, the established landscaping, limited physical development and concealed nature of the site, there is no unacceptable harm to the rural character of the area.
16. Additionally, the assertion of harm is largely unsubstantiated, particularly considering the fact that the Council's landscape consultant raised no objections to the proposal. Moreover, although the Inspector was considering a temporary proposal, the previous appeal decision also concluded there to be no harm to the character and appearance of the area.
17. Therefore, the development would comply with Policy CSTP3 of the CS. This seeks to maintain and improve Gypsies and Travellers way of life, and amongst other things, ensure that proposals do not unacceptably harm the character and appearance of the area, or result in an unacceptable visual impact.

Other considerations

Need for Gypsy and Traveller sites

18. It is common ground that the Council cannot demonstrate an up to date 5-year supply of deliverable sites. Additionally, the Thurrock Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2018 (GTAA) outlines that 85 pitches are needed in the borough from its baseline in 2016 to 2033.
19. Even though the appellant claims the need to be higher, the minimum need is still at a considerably high level, specifically when considering the very slow progress to deliver sites. Since the 2016 baseline of the GTAA, only 7 sites have been granted permanent personal permission. These sites were all in the

Green Belt and there remains an unmet need of at least 78 pitches. Additionally, whilst these personal permissions meet a need, they only meet the need of those specific Gypsies and Travellers on those sites and not the overall general need.

20. I acknowledge that the Borough's identified need accounts for households that meet the planning definition in the PPTS, unknown households that may meet the definition and for households that do not meet the planning definition. However, the scale of need could also be greater when considering the outcome of *Smith v SSLUHC & Ors* [2022] EWCA, which found that the definition of Gypsy and Travellers in the PPTS was discriminatory in nature.
21. Additionally, the GTAA unpinning the assessment of need is considerably long in the tooth, and the previous appeal also found there to be significant unmet need for pitches based on the 2014 GTAA, and no 5 year land supply. The situation has not changed, and if anything, has got worse.
22. It is also common ground that there is no available accommodation elsewhere for the appellants or any other Gypsy and Traveller families. There is no space on the Council owned sites and these are also subjected to waiting lists. Furthermore, the turnaround is limited and more often than not, when space does become available on these sites, it is generally taken by existing households, for example, children coming of age. This illustrates the general lack of need.
23. Therefore, the overwhelming and sustained scale of unmet need and the lack of a 5 year supply of sites weighs substantially in favour of the appeal.

Failure of Planning Policy

24. Policy CSTP3 of the CS sets out that the Council will make provision for a total of 87 pitches from 2006-2021. It is common ground that this number is out of date because it was based upon a revoked regional strategy. It was also considered to be out of date in 2015 at the previous Appeal. Policy CSTP3 details that it is the Council's intention to allocate sites to meet the need in a Site Specific Allocations Development Plan Document, but work on this document was suspended several years ago and sites are intended to be allocated in the emerging Local Plan.
25. However, the timescale for the adoption of the new Local Plan has persistently slipped. The previous appeal decision at this site was looking to late 2018 and the appeal decision² at Malvern Road detailed late 2023. The Council set out at the Hearing that it would be at least 2026 before adoption, and this figure is not set in stone.
26. The Council can offer no remedy to the lack of provision, and the only way to meet the need at the moment is through planning applications and appeals such as this.
27. The Council's failure to provide suitable sites to meet its high level of need has continued for several years and is set to continue for several more. Put simply, there is no way of securing a supply of plan led sites until at least 2026. This is a considerably worse position than when the temporary planning permission

² APP/M1595/W/19/3225961

was granted, with time scales slipping by more than 8 years, and very few sites being granted permission.

28. There is a clear and persistent failure of the Council to put policies or other measures in place to meet the accommodation needs of Gypsies and Travellers, and of a related long-standing significant unmet need for sites.
29. Notably, the Council accepts that the allocation of sites in the emerging Local Plan will be on land that is currently in the Green Belt. Although this would be plan-led release, its acceptance demonstrates the lack of non-Green Belt sites.
30. The Council's failure to deliver sites to meet the acute general need means there is also a failure by the Council to have due regard to its duty under the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010. This is because the Council is required to consider how it could positively contribute to the advancement of equality and good relations, with s149 placing an onus on public authorities not only to avoid discrimination, but also be proactive in promoting equality.
31. Consequently, the persistent, prolonged and acute failure of planning policy to provide sites to meet the immediate and pressing need for the Gypsy and Traveller community both historically and going forward weighs substantially in favour of allowing the appeal.

Other Matters

32. Local residents have raised a number of objections. I have had regard to these above in relation to the Green Belt nature of the site. Additionally, however, there would be no increase in pitches from the temporary consent, and therefore no increase traffic to the site. The access is acceptable, and the Council raise no issues in this regard. Also, the conditions from the temporary planning permission were discharged.
33. There is no substantiated evidence relating to security, fear of crime or fly tipping. There would be little impact upon local services such as education and health care, and indeed, these have been accessed by the appellants for several years without any apparent issues. Any changes to the site's size would require a new planning permission and this proposal would not set a precedent for others as each proposal falls to be considered upon its own merits.

Green Belt balancing exercise

34. Inappropriate development is, by definition, harmful to the green belt and should not be approved, except in very special circumstances. Additionally, modest harm also arises from the reduction in openness and encroachment of the countryside, contrary to the fundamental aim and purposes of the Green Belt. These matters combine to attract substantial weight against the proposal.
35. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Policy E of the PPTS also details that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the green belt and any other harm so as to establish very special circumstances.

36. However, in this specific instance, there is an overwhelming scale of need, which could be even greater having regard to case law and the aged GTAA. There is no 5 year supply of sites. There is a failure to comply with the PPTS by providing suitable sites. There is a persistent, prolonged and acute failure of the Council's planning policies, and a failure to meet PSED. The Council has no plan led way of remedying the scale of unmet need until at least 2026. Notably in this case, the Council also accepted that future allocations for traveller sites would take place on land currently allocated as Green Belt.
37. This site causes Green Belt related harm, but results in no other planning related harms, and is compliant with Policy CSTP3 of the CS. It would meet a very marginal amount of overall need now, providing the appellant and his family with a permanent base in which to access education and health care.
38. Therefore, given this specific set of circumstances, the other considerations in this case clearly outweigh the Green Belt harm, and very special circumstances exist which justify the development.

Personal circumstances and Human Rights

39. There are personal circumstances that have been put before me, however, it has not been necessary to examine these in any great detail. The site clearly meets their needs, and the needs of the Council for the provision of Traveller sites, with a condition limiting the occupation to that of Gypsies and Travellers.
40. I have had regard to the human rights of the families in question and the best interests of the children. As I intend to allow the appeal and grant permission there would be no interference with their rights or interests.

Conditions

41. The proposed site layout is slightly different to that on site, and a period of 4 months to implement the changes is necessary to safeguard the satisfactory development. The landscaping strip with Willow Cottage is to be retained to maintain the living conditions of the occupants. A condition restricting the type and number of caravans should be imposed to limit the visual impact.
42. Whilst the appellant argued that limitations on external lighting are unnecessary, there is a residential dwelling adjacent to the site and unrestricted lighting could cause harm their living conditions, even considering the established landscaping. Therefore, a condition would be necessary. The parking of larger commercial type vehicles will not be permitted, so as to safeguard the character and appearance of the area.
43. However, a condition requiring no other means of electricity generation would be unnecessary given that the site is powered by mains electricity. It would also be unnecessary to restrict commercial activities because this would need planning permission.

Conclusion

44. For the reasons set out above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

APPEARANCES

For the Local Planning Authority:	
Jonathan Keen BA MA PG Cert TP MA	Interim Strategic Lead, Development Services
Richard Hatter BA (Hons) MRTPI	Strategic Planning Manager
For the appellant:	
Alan Masters	Counsel for the appellant
Brian Woods BA(TP) MRTPI	WS Planning and Architecture
Robert Ward	Appellant, Plot 1
Martin Ward	Representing John Ward, Plot 2
Martin Ward (Senior)	Plot 3
Martin Ward (Junior)	Plot 4

SCHEDULE OF CONDITIONS

- 1) Within 4 months of the date of this decision the use hereby permitted shall be laid out in accordance with drawing number J003547-DD-03 Revision A.
- 2) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 3) The south-western landscaping area, along the common boundary with Willow Cottage, shall be used solely for landscaping/planting and for no other purpose including those associated with the domestic use of the pitches.
- 4) No more than 8 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 6 shall be static caravans) shall be stationed on the site at any time. This is in addition to the 2 utility/day room buildings.
- 5) No external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved scheme and no other external lighting shall be installed or operated.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

*****END OF CONDITIONS*****