



Appeal Decision

Hearing held on 15 November 2022

Site visit made on 15 November 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/B1930/W/21/3276551

Woodview Lodge, Lye Lane, Bricket Wood, St Albans AL2 3TW

- 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 Edward Connors against the decision of St Albans City & District Council.
 - The application Ref 5/20/1121, dated 15 May 2020, was refused by notice dated 8 December 2020.
 - The development is change of use of land to use as a residential gypsy caravan site.
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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 gypsy caravan site at Woodview Lodge, Lye Lane, Bricket Wood, St Albans AL2 3TW, dated 15 May 2020, subject to the conditions in the Schedule to this decision.

Procedural Matter

2. There is disagreement between the main parties as to the lawful planning status of the site subject of the appeal. It is not for me, under a section 78 appeal, to determine such matters. My determination of this appeal under section 78 does not affect the Council from investigating this matter separately and has not influenced my decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness and purposes of the Green Belt;
 - The effect of the development on the character and appearance of the area; and
 - 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.

Reasons

Whether the development would be inappropriate development

4. The appeal site comprises an existing gypsy and traveller site located off Lye Lane located within the Metropolitan Green Belt. The site accommodates a day room and a total of 15 static caravans arranged in a formal manner either side of a driveway.
5. From the information before me 11 are lawful and the siting of the other 4 static caravans are the subject of this appeal. The 4 caravans are located in an area which is consented for stables and a menage.
6. The site has an urban appearance largely laid out to hardstanding and sits next to the M25 motorway. The site is screened from the public realm by planting with glimpsed views of the tops of caravans from the bridge over the motorway. In contrast the wider area has a more rural appearance characterised by wooded areas and green spaces.
7. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Policy E of the Planning policy for traveller sites (PPTS) states that traveller sites, either temporary or permanent in the Green Belt are inappropriate development.
9. Whilst the St Albans Local Plan Review (1994) (LP) predates the Framework existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of it. Due weight should be given to them, according to their degree of consistency with the Framework. In my view LP Policy 1 is broadly consistent with the sustainable development principles and Green Belt objectives set out in the Framework.
10. The proposal is for four static caravans which have been on site for a number of years. Both parties agree that the proposal would be inappropriate development in the Green Belt and based on the evidence before me I can only draw the same conclusion. As such, it represents inappropriate development within the Green Belt as set out in the PPTS and LP Policy 1.

The effect of the proposal on the openness and purposes of the Green Belt

11. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
12. I note that planning permission has been granted for the construction of stables and a menage on the site. However, based on the discussions at the hearing it appears that they have not been built. The appellant contends that the development now before me has less of an impact upon openness compared to the stables and menage in spatial terms.
13. Even if I were to accept that the stables and menage represented a legitimate fallback position and despite the appellant's contention I share the Council's view that the development still results in a loss of openness in spatial terms through the introduction of additional caravans on site compared to a single

stable building and menage. As such, I find that it would lead to a moderate reduction to the openness of the Green Belt contrary to one of the aims of the Framework.

14. The development is largely screened from the public realm by existing planting reducing its visual impact. Conditions relating to the number of caravans and landscaping would also further serve to mitigate this impact.
15. One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The proposal is well contained due to the neighbouring built form, the presence of boundary planting and the motorway embankment. As such, there would be no encroachment into the countryside. Nor would the development undermine the other purposes of the Green Belt.
16. I acknowledge that the form and appearance of the stables and menage has more of a rural appearance and the development results in a visual change compared to the approved scheme. However, this does not mean that what is before me unduly harms the character and appearance of the area.
17. In the glimpsed views that do exist locally, it is seen in the context of existing caravans resulting in marginal visual change. As such, and again with conditions concerning landscaping and boundary treatments, I conclude that the development does not unduly affect the character and appearance of the area.

Other Considerations

18. The parties agreed all these residents fell within the definition of gypsy and travellers in the PPTS, and I have no reason to find differently.
19. It is agreed that there is an unmet need for pitches in the district. The shortfall, in my view, is considerable standing at some 43 pitches. Whilst the Council are working to close the gap it is apparent that the required number of pitches is not being delivered. This has been the case for a number of years. This shortfall attracts significant weight in favour of the development.
20. The Council accept that they cannot demonstrate a 5-year supply of pitches for gypsies and travellers. This goes against paragraph 10 of the PPTS which states that local plans should identify and update annually 5 years' worth of deliverable sites for gypsies and travellers.
21. The Council advise that they expect to adopt their new local plan in 2025. Their strategy for delivering gypsy and traveller sites is still emerging indicating that addressing the need through the local plan process is still some way off. It is apparent to me that following the Lisa Smith Judgement¹ further consideration of the need for pitches including for undetermined gypsy and traveller households, household growth and overcrowding will likely need to be undertaken. Furthermore, the vast majority of the district falls within the Green Belt, a further constraint in respect of delivery. As such, I attach significant weight to these matters.
22. I have not been presented with any specific personal circumstances for a settled base in respect of the adult occupants of the caravans. However, there are children residing in more than one caravan. One of the children attends the

¹ Smith v SSLUHC & Ors [2022] EWCA Civ 1391

local school whilst the other children are not of school age. The interests of the children would, in my view, be best served by having a settled base. If the appeal were to be dismissed it is likely that there would be no other alternative but for the families to exist 'roadside'.

23. In the case of two of the pitches, although no children are on the site now, the occupants are expecting children shortly. The Declaration of the Rights of the Child states *"the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth"*.
24. Similarly, Article 24 of the *Convention on the Rights of the Child* states that parties shall take appropriate measures *"to ensure appropriate pre-natal and post-natal health care for mothers"*.
25. Therefore, although the children have not yet been born, in my opinion their best interests are something that should be a consideration to which significant weight is given. I consider the children would benefit from a settled base in their early life so as to experience consistent health care. Consequently, the benefit to the unborn children carries significant weight in favour of the appellant's case.
26. It was established at the hearing that there are no alternative pitches or options currently available in the district. If the appeal were to be dismissed there would be no other option but to exist 'roadside' with their children.

Planning Balance

27. Paragraph 148 of the Framework states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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.
28. The proposal would be inappropriate development within the Green Belt. Whilst the countryside would be safeguarded from encroachment it would lead to moderate effects upon the openness of the Green Belt. In accordance with the Framework, I give substantial weight to this harm.
29. The PPTS states 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. This of course does not mean these matters should be attributed no weight in the balancing exercise, but rather the weight they would receive would not be great enough, of itself, to outweigh the Green Belt harms.
30. Whilst I give only limited weight to the personal circumstances of the adult occupiers, the personal circumstances of the child dependants and unborn children is a primary consideration. I have also taken into consideration the interference with their human rights if they were required to leave the site and take up a roadside existence given the lack of alternatives. This is of substantial weight in favour of the development.

31. The unmet need for gypsy and traveller pitches in the district; the absence of a five year supply of deliverable sites and the Council's failure to make appropriate provision carries great weight in the appellant's favour.
32. I acknowledge that intentional unauthorised development has taken place. However, on account of the unmet need in the district, the lack of alternative options, the personal circumstances of the appellant's extended family and the site's overall appearance I give this limited weight in the balance.
33. The Framework makes clear that inappropriate development should not be approved except in very special circumstances and that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations.
34. Taken together and having regard to the above, in my judgement, the harm caused by reason of inappropriateness and any other harm, is clearly outweighed by other considerations in these particular circumstances, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

35. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr E Connors Appellant

Mrs A Connors Appellant

Philip Brown Philip Brown Associates

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Ozier Planning Consultant

Schedule of conditions

- 1) The occupation of the pitches hereby permitted shall be occupied only by the following and their resident dependants: Michael and/or Ann Wall; Joe and/or Rosemary Hanrahan; Sean and/or Cheyanne Healy and Jeff and/or Danni Parker.
- 2) 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 4 shall be a static caravan) shall be stationed on the site at any time.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected.
- 4) Within 3 months of the date of the permission a scheme of landscaping shall have been submitted to the local planning authority. Once approved in writing the scheme shall be carried out in accordance with the details within 6 months. Any trees or plants which within a period of 3 years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.