



Appeal Decision

Hearing held on 20 June 2023

Site visit made on 20 June 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st July 2023

Appeal Ref: APP/W0530/W/23/3317545

Land at Moor Drove, Cottenham Road, Histon CB24 9AN

- 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 William Connors against the decision of South Cambridgeshire District Council.
 - The application Ref 21/01618/FUL, dated 9 April 2021, was refused by notice dated 25 January 2023.
 - The development proposed is change of use of land to create 4 Gypsy/Traveller pitches comprising the siting of 4 mobile homes, 4 touring caravans, and installation of 4 cesspits.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to create 4 Gypsy/Traveller pitches comprising the siting of 4 mobile homes, 4 touring caravans, and installation of 4 cesspits at Land at Moor Drove, Histon, Cambridge, in accordance with the terms of the application, Ref 21/01618/FUL, dated 9 April 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. It was indicated that the Appellant and the extended family have resided on the site since around early 2021. The site has been laid with hardsurfacing and timber fencing has been constructed around its boundaries. A number of caravans and shed structures are already in position on the land, though their number and position do not correlate with the proposed site plan. Whilst I have treated the change of use of land as retrospective on this basis, it was claimed that the works undertaken are either capable of being removed or replaced, subject to a site development scheme condition if necessary.
3. At the site visit, it became apparent that the land outlined in blue on the site location plan which is owned by the Appellant was being used as a storage site for waste metals and aggregate products and it does not appear that planning permission has been granted for such. The Appellant claimed that this land was imminently due to be transferred into separate ownership. This additional unauthorised use of land has been taken into account and my approach has been outlined in writing to the parties to avoid any prejudicial effects.
4. There are approximately 20 authorised caravans¹ occupied by Traveller families already at Moor Drove and a large number of others which also appear

¹ APP/W0530/A/08/2067087 and APP/W0530/W/17/3183666

unauthorised. I have considered the proposal on its own merits without consideration of the cumulative effects of any unauthorised pitches, as I have no certainty that permission would be forthcoming for them in any event.

Main Issues

5. The main issues are:

- the effect of the proposal on the openness of the Green Belt;
- the effect of the proposal on the character and appearance of the area;
- the general need for pitches in the area;
- the personal needs of the Appellant and his extended family for accommodation;
- the personal circumstances of the Appellant and his extended family; 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

Green Belt Openness

6. The site and adjoining land owned by the Appellant extend to around 0.5 hectares. Both parcels of land are relatively flat and are located in the countryside between the villages of Histon and Cottenham. They are accessed from the B1049 by a private road, Moor Drove. Land to the north, south and west is generally open agricultural land.
7. The site and wider area are within the Cambridge Green Belt. The National Planning Policy Framework ('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 being their openness and permanence. The Planning Policy for Traveller Sites 2015 (PPTS) sets out that traveller sites in the Green Belt are inappropriate development and the parties agree that this proposal would, by definition, constitute inappropriate development in the Green Belt.
8. The Appellant acknowledges that, considered in a spatial context, there would be harm to the Green Belt's openness. However, the parties differ on the degree to which the visual dimension of openness of the Green Belt would be harmed by the proposal.
9. The authorised pitches in Moor Drove and extent of unauthorised infilling of spaces in between has eroded the degree of openness of the area immediately north and east. The introduction of caravans, hardstandings, vehicles and associated paraphernalia onto the site would inevitably harm the openness of the Green Belt. Mr Woods indicated that the close boarded fencing around the site could be altered for a post-and-rail enclosure, but this is likely to be of limited benefit to the degree of openness of the site with the number of structures that would be stationed upon it in any event.
10. The plans and aerial imagery of the area show a woodland belt running north-south immediately to the west of the site. Neither the Appellant nor Mr Woods could shed any light on when or why all but a couple of trees had been

removed, with those few left being sited predominantly near the southern boundary. The Council's claim that the screening benefit of these trees could not be relied upon has therefore been borne out through the actions of the respective owners of said land. Whilst this has made the area more 'open' in the truest sense of the word, it has exposed the urbanising effects of the caravans and domestic paraphernalia on the site, and by extension, all other occupied areas of Moor Drove.

11. The unauthorised use of the Appellant's land to the north of the site as a storage site has also resulted in harm to the openness of the area. The removal of all of this material would reinstate some of the degree of openness that is depicted in the plans, though it would not minimise the harm from the proposal itself.
12. The limited degree of public visibility of the effects has been raised on behalf of the Appellant. I acknowledge that Moor Drove is a private road and that there are no rights of way which pass close enough to the site to offer public views thereof. However, any landscaping that were capable of being introduced on the site and on adjoining land, were it retained by the Appellant, would not be able to mitigate against the harm, irrespective of the limited public viewpoints in the area.
13. The proposal therefore conflicts with the purposes of the Green Belt and would have a substantially adverse effect on openness, in conflict with the Framework, PPTS and Policy H/22 of the South Cambridgeshire Local Plan (2018) (Local Plan). This Policy seeks to ensure new Traveller sites are directed to sites outside of the Cambridge Green Belt in the first instance, unless compliance with National policy dictates otherwise. Such harm attracts substantial weight.

Character and appearance

14. For similar reasons to the effects on openness, the proposal would result in harm to the rural character and appearance of the generally flat and open area of countryside through an intensive form of urbanisation. These effects would be exacerbated by the now denuded quality of the land to the west; resulting in an abrupt transition between the urban and cluttered appearance of the site and the adjoining land. Having regard to the sizeable site size, the relatively well contained nature of the landscape, the number of caravans proposed, extent of hardstanding and amount of paraphernalia would result in considerable harm.
15. It was indicated that planning conditions could be used to secure additional landscaping to minimise the effects of the proposal, albeit acknowledging that caravans should not need to be entirely concealed from view such as to be perceived as being isolated from the receiving community. However, I consider that the space for effective landscaping as a means of visual screening is too limited and what was in existence that was effective has been removed. That is not to say that any tree or shrub planting would be pointless, as any degree of softening would be beneficial, but it would not materially benefit or reinstate any rural character or appearance the site may have once had.
16. The proposal would also be seen in context with at least the collection of authorised pitches at Moor Drove and consequently, would result in additional cumulative harms. I have also considered the effects from the unauthorised

storage use of the land immediately adjoining the site which has harmed the rural character and appearance of the area. Its removal would reduce the extent and degree of cumulative harms to be taken into consideration, and it is currently within the power of the Appellant to do so. The ability to plant additional trees on this land to further mitigate the visual harm from the appeal proposal has been cast into doubt by the Appellant's admission that the site would eventually be transferred into separate ownership, particularly given the timeframe for the establishment of such to achieve any tangible benefit.

17. Taking all these factors into consideration, the proposal would cause significant harm and therefore conflicts with Policies HQ/1 and NH/8 of the Local Plan. Collectively, these Policies seek to ensure that developments avoid adverse effects on the rural character and openness of the area. I also conclude that the harm would amount to the unacceptable adverse impact which is not permitted by Local Plan Policy H/22 relating to Traveller proposals.

Need for pitches

18. Annex 1 of the PPTS provides a definition of Gypsies and Travellers for the purposes of planning policy and those who meet the definition are said to have PPTS status. The Lisa Smith Judgement², dated 31 October 2022, concerned the status of travellers who have ceased to pursue nomadic lifestyles for reasons of ill health or old age in the context of this definition and found it to be, to an extent, discriminatory.
19. The Gypsy and Traveller Accommodation Assessment³ (GTAA) formed part of the Local Plan evidence base. The GTAA identified a need for -9 additional pitches for households that met the PPTS Annex 1 definition, up to 68 additional pitches for households with an 'unknown' PPTS status and up to 61 pitches for households that did not meet the definition for the period between 2016 - 2036. However, the 2016 GTAA has previously attracted criticism given the unresolved uncertainty about the level of need for pitches. In addition to this, the picture of need is likely to have changed in the six or more year period since the GTAA was published and the development plan policies do not clarify how the needs of those of an 'unknown' status should be addressed.
20. The Council's approach to delivery of Traveller sites under Policy H/21 of the Local Plan is to secure them through part of large scale new communities and significant major development sites. Alternatively, Policy H/22 is a criteria-based Policy that allows for new Traveller sites to be granted on unallocated sites outside of the defined development Frameworks and outside of the Green Belt where an adequate need has been demonstrated.
21. In terms of supply, in the absence of any specific allocations, the Council is reliant on the delivery of some pitches through large-scale schemes by way of Policy H/21, but could not provide a number of any granted or the yield expected for the remainder of the plan period. The yield of sites expected from windfall proposals is also unclear. Added to these factors is the acknowledgement from the Council's Gypsy Traveller Liaison Officer (GT Liaison Officer) that the Council's own sites, comprising a total of 32 pitches, have long

² Smith v SSLUHC & Ors [2022] EWCA Civ 1391

³ Cambridgeshire, King's Lynn & West Norfolk, Peterborough and West Suffolk Gypsy and Traveller Accommodation Assessment, October 2016

- waiting lists for pitches for which there is very low turnover with around 40 – 50 applications per pitch. There are issues of overcrowding at these sites.
22. The Council have agreed in the Statement of Common Ground (SoCG) that it cannot demonstrate a five year supply of deliverable sites for Travellers that meet the PPTS Annex 1 definition. The evidence supports this and, consequently, I find no reason to reach an alternative conclusion. In my view, the current level of unmet need appears to be substantial, considering the high number of 'unknowns' in the 2016 GTAA, the lack of policy allocations other than in Policy H/21 to address the need and taking into account the number of current unauthorised pitches at Moor Drove alone.
23. The PPTS indicates that where an up-to-date 5 year supply of deliverable sites cannot be demonstrated, this should be a significant material consideration when considering applications for the grant of temporary planning permission, with exceptions such as where sites are in the Green Belt. Even if the weight to be attributed to this consideration is suppressed by way of the site's location within the Green Belt, it does not change the current position that there is a high level of unmet need and lack of supply of sites. These factors help explain the Appellant's rationale for seeking an alternative solution to address his and the extended family's needs.
24. I was advised by Mr Hammond, that the Council have recently commissioned an updated GTAA, which should help provide a clearer picture of current needs. The replacement GTAA is intended to inform the development of policies in a new Local Plan, though the trajectory for the formulation of such is unclear and likely to be some way into the future.

Personal Needs

25. At the hearing, it was indicated that the Appellant's two brothers had also taken residence on the site in touring caravans. These are additional to the intended occupiers listed in the written evidence. Despite the addition of these occupants, no change to the maximum number of caravans was requested.
26. The occupiers of the site, treated as an extended family group, would therefore be as follows:
- Mr William Connors, Mrs Bridget Connors and their two resident dependants, aged 4 and newly born. Mr William Connors travels for work as a landscaper.
 - Ms Josie Connors (the Appellant's mother) and her mother Bridget Connors, both of whom have ceased to travel due to their health and old age.
 - Ms Ann Marie Connors, a family friend, along with her six resident dependants aged between 7 and 19 years of age, and two of whom have specific health or additional needs. Ms Connors no longer travels due to being a single parent.
 - Ms Margaret McCarthy (the Appellant's cousin) along with her three resident dependants aged between 2 and 10 years of age.
 - Mr John Connors, the Appellant's brother, who travels for work as a landscaper, often with the Appellant.
 - Mr Larry Connors, the Appellant's other brother, who also travels for work as a landscaper.
27. The economically active members of the extended family clearly benefit from PPTS status. However, around half of the adult occupants have largely ceased

to travel due to old age, ill health or similar circumstances. The evidence indicates that the extended family support one another and wish to continue doing so. Therefore, I consider it appropriate to treat the needs of the members of the extended family together.

28. The Council is correct in asserting that the Appellant has not provided written evidence of an extensive search of sites, either within or outside of the Green Belt; a designation which covers approximately 25% of the District. However, the evidence outlines that prior to moving onto the appeal site, the extended family attempted to stay together either doubled up on other pitches, or living on the roadside, having been moved on regularly. The insufficient capacity at the Council's own sites has already been outlined and the Appellant highlighted that there would not be any pitch suitable for the extended family within either site in any event. The GT Liaison Officer's comments also indicate that options for Travellers to live with their community are very limited in South Cambridgeshire due to the general lack of sites.
29. In essence, the Appellant indicated that he knew of no sites that were available or likely to become available to him and the extended family. The site at Moor Drove was attractive because they knew other occupants in the wider family resident there and it is the only settled base to which they have access. The Council's evidence does not identify any tangible alternatives to the appeal site to counter the Appellant's position.
30. In view of the above, the Appellant and his extended family are in need of accommodation and there are presently no identifiable alternative pitches on public or privately-owned sites that would be available or suited to them.

Personal Circumstances

31. The Human Rights Act⁴ establishes a right to respect for private and family life and the Public Sector Equality Duty⁵ requires that a public authority must foster good relations between persons who share a relevant protected characteristic and those who do not. The United Nations Convention on the Rights of the Child, under Article 3, requires a child's best interests to be a primary consideration, and no other consideration must be regarded as more important or given greater weight than the best interests of any child.
32. The respective households forming part of the extended family have been outlined above and are all of Irish Traveller ethnicity. There are 9 resident children on site (under the age of 18), 2 of whom attend school already and 1 of whom attends a local pre-school. The family expressed a desire for all resident children to attend pre-school and primary school when they reach the relevant age.
33. Some members of the family have particular medical needs which involve the services of local medical practices, including the recent birth of a baby to the Appellant and his wife. The extended family wish to stay together to provide support to one another. Similarly, the extended family are linked to the resident families at Moor Drove. The GT Liaison Officer indicates that Moor Drove is well established and the residents are settled, with an overall positive family dynamic. The GT Liaison Officer also indicates that every child of school age is in full-time education, registered at the local doctors and that there are

⁴ Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act (1998)

⁵ Public Sector Equality Duty under the Equality Act, 2010

complex and extensive personal circumstances which means the residents rely on each other for support, such as for childminding, health needs and employment. There is also a weekly drop-in for Travellers nearby with the Council's Traveller Health Team in Cottenham. This service enables the Council to offer support across a wide range of issues, including where assistance with reading or writing is needed.

34. There would be advantages for the general wellbeing of the extended family by having a settled base and being able to provide a stable home and access to basic amenities and a range of local services, including schooling. This would be in the best interests of the 9 children. While similar benefits might be achieved on another settled site, no suitable alternative sites have been identified. Whilst a roadside existence does not preclude all access to education and health services, it is likely that a prolonged absence of a settled site would lead to serious disruption to access to education, health and other services for these children, without any certainty of suitable alternative accommodation becoming available.

Other Matters

35. The comments of the Parish Council refer to a requirement for details of foul drainage which could be addressed by way of planning condition. The request for a tree survey would appear incapable of effect now that the site itself is devoid of trees.
36. I have also considered the separate representation submitted anonymously about the significant numbers of residents at Moor Drove, though I can be less certain of the accuracy of the alleged number. However, as indicated, this proposal must be considered on its own merits with regard to only the existing lawful pitches at this time. I cannot be certain of any future permissions being granted. Consequently, at this stage, the total number of pitches and residents is not a cause for concern in terms of the dominance of the nearby settled community.
37. I have had regard to the ministerial statement on Green Belt protection and intentional unauthorised development⁶ which applies in this case given the unauthorised occupation of the site and the storage use on the adjoining land. This factor is a material consideration that also weighs against the development.

Whether Very Special Circumstances

38. The proposed development would conflict with Local Plan Policy H/22 and fail to accord with the Framework and PPTS by introducing inappropriate development into the Green Belt, undermining its purposes and substantially reducing its openness. In accordance with the Framework, substantial weight must be given to such harm to the Green Belt.
39. The development would also cause significant harm to the rural character and appearance of the area, contrary to Local Plan Policies HQ/1, NH/8, also bringing the development into conflict with Local Plan Policy H/22. The scheme is therefore contrary to the development plan, when considered as a whole.

⁶ Green Belt protection and intentional unauthorised development, 17 December 2015

40. The intentional unauthorised development is also a material consideration that weighs against the development.
41. The weight to be attached to the best interests of the children is no less than the substantial weight to be attached to the Green Belt harm. I have indicated that the best interests of the children would be served by them having a settled base and access to education and healthcare facilities.
42. The PPTS indicates that unmet need and personal circumstances are unlikely to form a significant material consideration in cases involving the Green Belt. There is currently no five year supply of deliverable PPTS sites and, by extension, an unmet need in the District. Given the uncertain policy response and timeline for implementing such, the unmet need is likely to persist for some while into the future. This factor, combined with the family's needs and circumstances, attracts great weight.
43. However, I find that the other considerations in this case, even when taken together, do not clearly outweigh the extent of the harm that I have identified. Consequently, the very special circumstances necessary to justify the development on a permanent basis do not exist.

Temporary Permission

44. Dismissing the appeal would have an adverse effect on the Appellant and his extended family, including the children, by pushing them towards a roadside existence or into overcrowded situation, making settled education and medical care more difficult.
45. It is evident that the outdated GTAA of 2016, the Council's admission of an inability to demonstrate a 5 year supply of deliverable sites and the commissioning of a new GTAA is part of the process of formulating an appropriate Policy response. Whilst the duration of such a process and end date for a completion are currently unknown, the parties agreed that a five year period would be sufficient for the Council to have a new local plan in place.
46. The harm to the openness of the Green Belt and character and appearance of the area would be reduced if the development were restricted to a temporary period of five years.
47. Consequently, though the other considerations do not indicate that a permanent permission should be granted, lack of a deliverable five year supply, unmet need and absence of alternatives, when combined with the personal need and circumstances of the Appellant and the extended family, particularly the best interests of 9 children, contribute to my finding that the other considerations clearly outweigh the identified harm so as to justify the development on a temporary basis. The very special circumstances necessary to justify development do therefore exist, albeit for only a temporary duration.
48. Whilst there would be interference with the Appellant and extended family's rights under Article 8 of the Human Rights Act, in my view, the protection of the public interest cannot be achieved by means which are any less interfering. The measures proposed are proportionate and necessary in the circumstances and would not result in a violation of said rights.

Conditions

49. In the interests of certainty, a condition stipulating the extent of the site and indicative layout is necessary, with any changes to the layout subject of a site development scheme condition.
50. The occupancy of the site should be restricted to the current Appellant and all of the other extended family members as their personal circumstances have contributed to my finding of very special circumstances. Furthermore, it should be for a temporary period of up to 5 years, with a requirement to re-instate the site afterwards. As the need for Traveller accommodation has also factored into my decision to grant a temporary permission, a condition is also necessary limiting occupancy of the site as such.
51. In the interests of the character and appearance of the area, a condition is necessary limiting the site to a total of four pitches, including 8 caravans of which no more than four shall be static caravans. For similar reasons, it is necessary to ensure that commercial vehicles are limited in number and size and that no storage of materials occurs on site.
52. As the land outlined in blue in the ownership of the Appellant is currently in unauthorised use, its reinstatement to its original condition would reduce some of the harms to openness and rural character. As this has already occurred, the form of the condition is such that it requires cessation of the use of the land on site should the actions required not be undertaken. Requiring the reinstatement of the adjoining land to its original condition would not be disproportionate to the five year duration of the permission.
53. To maintain the character and appearance of the site and avoid harm to the environment, a condition is also necessary to ensure that landscaping, including new planting and fencing, and the provision of surface and foul water drainage schemes are undertaken in accordance with details to be agreed. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met and is proportionate to the five year duration of the permission.

Conclusion

54. For the foregoing reasons, the appeal is allowed.

Hollie Nicholls
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr B Woods	WS Planning and Architecture
Mr William Connors	Appellant
Mrs Bridget Connors	Wife of the Appellant
Mrs Josie Connors	Mother of the Appellant
Mr John Connors	Brother of the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Michael Hammond	Greater Cambridge Shared Planning Team
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SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, Ref J003862-DD-01, dated March 21
 - As Proposed Site Plan, Ref J003862-DD-03, dated March 21
- 2) The use hereby permitted shall be carried out only by the following: Mr William Connors, Mrs Bridget Connors and their resident dependants; Ms Josie Connors; Ms Bridget Connors; Ms Ann Marie Connors and her resident dependants; Ms Margaret McCarthy and her resident dependants; Mr John Connors and Mr Larry Connors.

The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision. At the end of this period, or when the land ceases to be occupied by those named above, whichever occurs sooner, the use hereby permitted shall cease, and all caravans, structures, materials and equipment brought onto, or 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.
- 3) 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.
- 4) There shall be no more than four pitches on the site and eight caravans (of which no more than four shall be static caravans), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.
- 5) No commercial activities shall take place on the site or land outlined in blue, including the storage of materials.
- 6) No commercial vehicles exceeding 3.5 tonne shall be kept on the site or the adjoining land outlined in blue.
- 7) 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 28 days of the date of failure to meet any one of the requirements set out below:

Notwithstanding the details shown on Drawing No J003259-DD02/A and within 4 months of the date of this decision, a Site Development Scheme including the following details shall have been submitted for the written approval of the local planning authority:

 - caravan layout;
 - external lighting;
 - removal of all stored materials from the blue line area;
 - hard and soft landscaping scheme, including means of enclosure and surfacing materials, details of any trees, shrubs, and hedges to be

planted and a schedule of landscape maintenance for a period of 5 years following initial planting;

- details of both foul and surface water drainage and associated maintenance arrangements; and
- a timetable for implementation of the Site Development Scheme.

If within 8 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.

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.

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 retained.

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.

End of Schedule