



Appeal Decision

Site visit made on 17 July 2023

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2023

Appeal Ref: APP/R2520/W/22/3292337

3 Greenacres, Poplar Meadow, Sleaford Road, Beckingham LN5 0RB

- 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 J Evans against the decision of North Kesteven District Council.
 - The application Ref 21/1375/FUL, dated 1 September 2021, was refused by notice dated 18 January 2022.
 - The development proposed is the erection of a building to be used by and provide additional accommodation for, occupiers of the pitch known as 3 Greenacres, Poplar Meadows.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a building to be used by and provide additional accommodation for, occupiers of the pitch known as 3 Greenacres, Poplar Meadow, at 3 Greenacres, Poplar Meadow, Sleaford Road, Beckingham LN5 0RB in accordance with the terms of the application, Ref 21/1375/FUL, dated 1 September 2021, subject to the following conditions:
 - 1) Within three months of the date of approval of this application, an energy statement shall be submitted to the district planning authority to include measures to target meeting a space heating demand of 15-20kWh/m²/yr and total energy demand of 35 kWh/m²/yr. The approved measures shall be implemented within 6 months of approval in writing by the district planning authority, with evidence submitted to the district planning authority to demonstrate compliance with the approved measures within one month of installation.
 - 2) The building hereby permitted shall not be used or occupied by persons other than Gypsies or 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' education 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 building hereby permitted shall not be used or occupied other than by persons occupying the site known as 3 Greenacres, Poplar Meadow.
 - 4) The development hereby permitted is shown on the following approved plans:

Location Plan, 1:2500, Licence 100017926

Block Plan, 1:500

Plans 1, 1:100 showing north, south and west elevations and ground floor layout

Plans 2, 1:100 showing east elevation and first floor layout

Preliminary Matters

Description of development

2. The appeal concerns the erection of a building. The original description of development was the replacement of an amenity block. However, although the plans do not label any rooms in the development as a bedroom, it is clear from the appeal statement that part of the building is intended to be used as sleeping accommodation for eleven children from the three linked pitches.
3. In the context of gypsy and traveller sites amenity blocks are generally buildings that contain cleaning and washing facilities, and sometimes buildings are erected for dayrooms and living rooms. The other amenity blocks at Poplar Meadow include playrooms and offices. None of the other amenity blocks on this site, or on any other site that I have experience of, has included sleeping accommodation in an amenity block. However, notwithstanding that it was unclear whether the building replaces a former amenity block, what is clear is that the building before me is not an amenity block in the generally understood meaning of the word.
4. The officer's report states that *the building has the intention and the capability to be used for permanent habitation and is therefore... a de facto dwelling*. I conclude that the Council also reached the conclusion that the building is not an amenity block.
5. Consequently, in order to consider the appeal on its planning merits rather than on a procedural basis, I suggested that the description of development be revised to better reflect the subject of the appeal. I note the Council's comments that the description does not allude to the building as a dwelling. However, on the basis of the evidence before me I conclude that the building's use for sleeping accommodation is likely to be a temporary arrangement.

Central Lincolnshire Plan

6. The Council's statement notes that since the appeal was lodged the Central Lincolnshire Plan (CLD) has been adopted and it has referred to policies against which this appeal should be tested. The appellant has not disputed this stance in the final comments and as such I have also referred to these policies in my reasoning.
7. At appeal the Council raised concerns in relation to recently adopted policies regarding energy efficiency. As such, I have found it appropriate to include this as a main issue.

Gypsy and Traveller status

8. There is nothing before me to dispute the gypsy and traveller status of the appellant or that of the extended family living at 3 Greenacres. Moreover, it is clear that this is an established gypsy and traveller park. As such, I have not included these issues in my reasoning.

9. After my visit I requested further information from the appellant with regard to occupancy of the site and the ages of the children. The Council was given an opportunity to comment on this information during the appeal.

Main Issues

10. The main issues are:

- Whether the development accords with local policies and national guidance with regard to location;
- The effect of the development on the character and appearance of the area;
- Whether the development accords with the recently adopted policies with regard to energy efficiency; and,
- Whether any harm arising from the development, if it exists, would be outweighed by personal circumstances, including the human rights balance and the best interests of children.

Reasons

Location

11. Under CLD Policy S1, which sets out the Council's spatial strategy, the proposals constitute development within the countryside. The proposal does not fall within any of the exceptions set out in CLD Policy S1.
12. As such, I conclude that the development does not accord with local policies with regard to development in the countryside. It is therefore contrary to CLD Policy S1 with regard to rural development, as well as CLD Policy S5 which states that new dwellings will only be acceptable where they are essential to the effective operation of existing rural operations set out in CLD Policy S1. There would also be conflict with Policies LP2 and LP55 of the Local Plan (LP) which are concerned with rural development.
13. Paragraph 80 of the National Planning Policy Framework (the Framework) is concerned with isolated homes in the countryside. However, although Poplar Meadow is some distance from Newark, it is an established park site with many pitches. There is nothing before me to suggest occupancy of 3 Greenacres will change as a consequence of this appeal decision and as such I conclude that there would be no significant conflict with Paragraph 80. Nor do I find particular conflict with Paragraph 8 of the Framework which is concerned with the three strands of sustainable development, for the same reasons.

Character and appearance

14. The park is a cul de sac accessed from Sleaford Road, in an open rural location with agricultural land on three sides. Most pitches are clearly delineated by masonry walls, and the park contains a mix of established mobile homes and tourers, as well as amenity blocks. There is a very even spread of low level albeit dense built form across the park, which has the appearance of a well maintained complex. Although there are several buildings with pitched roofs which have a degree of permanence, the park has a low level impact only on the visual amenity of the locality.

15. The pitched roof brick building before me has a floor area approximately 50 per cent larger than the examples of amenity blocks submitted by the appellant. The appeal statement notes that it is significantly larger than a typical amenity block. It also has accommodation at first floor level, clearly indicated externally by the presence of dormer windows. As such, it has the appearance of a modest dwelling.
16. However, at my visit I noticed that there was similar structure, of not dissimilar size, with a pitched roof and gable on another site. There were also several amenity blocks with brick facing and pitched roofs within the same visual envelope. As such, I conclude that this development does not significantly differ from other structures in the park in form, scale or materials. Nor does its overall height and bulk appear incongruous in this setting.
17. Moreover, notwithstanding that the before me development is taller than most of the other structures on the park, it is set back from the Sleaford Road boundary and is not particularly visible from that road. The formal gated entrance also gives a degree of urbanisation to the rural setting.
18. CLD Policy S53 requires development to respond to its context, and relate well to the site, particularly in terms of size, siting, height, scale and massing, amongst other considerations. At my site visit I concluded that the development responded to its context, particularly with regard to the spread, form and appearance of other structures at Poplar Meadow.
19. Consequently, I concluded that the development does not have an adverse effect on the character and appearance of the area and that there is no conflict with CLD Policy S53, or LP Policies LP17 and LP26 which are concerned with visual amenity.

Energy efficiency

20. CLD Policy S6 sets out expectations in terms of design principles for energy efficient buildings in terms of orientation, form, fabric, heat supply, and renewable energy generation. All residential development is to include an energy statement with regard to energy generation and heating demand, as set out in CLD Policy S7. However, development on brownfield land appears to have lesser expectations with regard to the energy statement.
21. The Council has included a suggested condition in this regard, should the appeal be allowed. I see no reason to conclude that this information and requirements could not be met. As such, I conclude that there would not be conflict with CLD Policies S6 and S7 if the appeal was allowed.

Personal circumstances

22. It remains for me to consider the appellant's personal circumstances whether these outweigh the harm identified above in relation to location and the conflict with the local development plan.
23. At my visit I noted that in addition to the building before me, there is one large permanent caravan, one pitched roof brick amenity block, a large timber shed and a touring caravan within the appeal site. The appellant advises that there is normally one other caravan, but this is currently off-site.

24. Current occupancy of the site is four adults and eleven children. All the children are the appellant's grandchildren. Some of these children have recently lost their father and the appellant is now undertaking additional caring responsibilities. The children range in age from a new baby to 15 years.
25. Neither party has addressed the requirements of Article 3 of the UNHCR¹. This requires the best interests of the children to be a primary consideration in decision making. Article 8 of the ECHR² is concerned with the right to respect for private and family life and for the home. There is an expectation that signatories to the ECHR will positively facilitate the gypsy way of life, which is based on familial ties and support.
26. The appellant advances the argument that this building is required to accommodate, at least for a given period, the sleeping and studying arrangements of eleven children. Four of the children are at a local school and the other school age children are being home-schooled.
27. The appellant has set out that he wishes to break the cultural antipathy towards bricks and mortar accommodation by providing sleeping accommodation in a bedroom environment typical of that used by the settled population. I see no reason not to give this argument weight. The Council has noted that this intention could be met by moving to more traditional housing.
28. However, gypsy culture is predicated upon family life, as set out above in the references to the UNHCR and the ECHR, as well as the guidance Planning Policy for Traveller Sites (PPTS). There is no indication that the appellant wishes to move to bricks and mortar accommodation, and there has clearly been some investment in this well-appointed and attractive site. Splitting the extended family between 3 Greenacres and more traditional housing, which would inevitably be some distance from Poplar Meadow, would sever, at least to some extent, the family relationships and support that are characteristic of gypsy and traveller families. These relationships are likely to be of even more importance in this particular case, given the recent bereavement and the age and numbers of children currently living on the site.
29. I conclude that it is in the best interests of the children to remain living and sleeping on the site. This could be accommodated by additional caravans. However, given the intention to allow the children the opportunity to sleep in a more conventional environment, which might benefit their housing options in the future, I conclude that in this particular situation, the conflict with local policies would be outweighed by consideration of the best interests of the children and the right to respect for family life and the home.
30. I acknowledge that in the fulness of time the children will become adults and the main argument advanced in support of the development will fall away. However, this is a building within an established gypsy park and I have found no harm in relation to the building itself in this context. The building will continue to be linked to the occupation and use of 3 Greenacres, by gypsies and travellers, even if its actual use and occupation changes over time depending on the extended family's circumstances. Moreover, this can be controlled by condition.

¹ United Nations Convention on Human Rights

² European Convention on Human Rights

I also note that the Council's Housing Strategy team noted that the building could contribute to the identified need for additional gypsy and traveller accommodation in the period 2023-2040. Although this carries only minor weight in my reasoning, it reinforces my conclusions.

Conditions

31. I have considered conditions suggested by the Council and have imposed a condition regarding energy efficiency measures in order to comply with the recently adopted plan, as well as a condition setting out the approved drawings for the avoidance of doubt.
32. I have also included a condition restricting occupancy and use of the building to individuals meeting the definition of gypsies and travellers, as defined in Annex A of the PPTS. However, the Court of Appeal in *Smith* held that the exclusion of travellers who may have ceased to travel permanently may be discriminatory. There is no foretelling as to whether current occupiers might be forced to cease travelling permanently during the anticipated lifetime of the permission. I shall therefore grant planning permission subject to a condition that restricts occupancy and use of the building to gypsies and travellers, defined so as not to exclude those who have ceased travelling permanently.
33. I have considered whether I should impose a condition limiting the use of the building. However, given that I have found no harm in relation to character and appearance, and the building is on an established gypsy and traveller site, I have concluded that the building might fulfil a range of uses for the family over time. However, given that I have based my reasoning on the building's contribution to family life at 3 Greenacres I have imposed a condition to ensure that its use and occupancy cannot be severed from the occupancy of 3 Greenacres.

Other matters

34. I acknowledge that the Council has raised a concern in relation to precedent. However, each appeal is determined on its merits.

Conclusion

35. Although there is conflict with the local development plan in respect of location, I have concluded that the best interests of the child and personal circumstances are of sufficient weight to outweigh the conflict with that plan. The appeal is allowed.

A Edgington

INSPECTOR