



Appeal Decision

Hearing held on 26 September 2023

Site visit made on 26 September 2023

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/C1570/W/20/3259029

Land north of Bardfield Road, Thaxted, Essex, CM6 3PU

- 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 Ryan Allen against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0551/FUL, dated 28 February 2020, was refused by notice dated 11 May 2020.
 - The development proposed is change of use of land to use as a residential caravan site for one gypsy family with two caravans. Erection of utility building and laying of hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for Change of use of land to use as a residential caravan site for one gypsy family with two caravans. Erection of utility building and laying of hardstanding at Land north of Bardfield Road, Thaxted, CM6 3PU in accordance with the terms of the application, Ref UTT/20/0551/FUL, dated 28 February 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Main Issue

2. Following receipt of the appellant's transport statement, evidence of suitable visibility splays have been provided on the basis of speed surveys carried out and subject to a condition requiring adherence to its findings, no further objection is raised by Essex County Council Highways Department. On this basis the Council is no longer pursuing reason for refusal 2 as outlined in its decision notice.
3. Therefore, the main issue in the consideration of this appeal is the effect of the development on the character and appearance of the area.

Reasons

Spatial Strategy

4. Policy S7 of the Uttlesford Local Plan 2005 (LP) sets out that the countryside will be protected for its own sake and that planning permission will only be given for development that needs to take place there or is appropriate to a rural area. At the hearing the Council confirmed that the development of Gypsy and Traveller sites would be development that would be considered appropriate to a rural area, having regard to the Planning Policy for Traveller Sites (PPTS) where Policy C indicates that some sites may be located, whilst ensuring that they do not dominate the nearest settled community.

5. Policy S7 goes on to set out that development will only be permitted if its appearance protects or enhances the particular character of that part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.
6. The Council confirmed that given its age, the policy should only be given limited weight. However, whilst Policy S7 of the LP is only partially consistent with the Framework as it is more restrictive in that it seeks to protect the countryside for its own sake, it also seeks to protect and enhance the natural environment, which is an important part of the Framework. Therefore, I consider it should be afforded moderate weight when considering development proposals in the countryside.
7. Policy H of the PPTS expects that within the open countryside new traveller sites should be very strictly limited. The Council considers that the site is within the open countryside, however the site is just outside the settlement boundary for Thaxted and is located adjacent to allotments and then a row of houses. Given this context I consider that the site is not within the open countryside.

Character and appearance

8. The site is located at the junction of Bardfield Road and Little Sampford Road and has previously been a triangular road feature with a through way located along the rear boundary of the site. More recently the site has been enclosed and was maintained by the Parish Council, with evidence provided orally that it had been used for parking in conjunction with the adjacent allotments.
9. The site has a post and rail fence along its boundaries and a native hedgerow has established providing a pleasant rural vista when travelling along Bardfield Road towards Thaxted. The site is viewed within the context of the development which lines Bardfield Road at its entrance to the village of Thaxted.
10. The proposed mobile home would be sited along the eastern boundary of the site, adjacent to the existing tree screen with the amenity building designed to resemble a small stable building, with the use of timber boarding with a brick plinth and a corrugated metal sheet roof.
11. Whilst caravans are not an alien feature in rural locations in the form of tourism or rural workers accommodation, the development of the site would also include the provision of permanent structures in the form of a utility building and areas for parking. In addition, the proposal would lead to the creation of a formal surfaced access with associated parking and turning and changes which would result in the intensification of the site as part of its residential occupation. This would be visually from the introduction of internal and external lighting which would be noticeable within this landscape and intrude into the countryside.
12. The site, despite the presence of landscaping around its boundaries, is visible from Bardfield Road and from these localised viewpoints the development would result in a change from the rural setting of the site, albeit viewed in the context of the adjacent allotment site which also contains a number of small buildings and structures.

13. Paragraph 174 of the Framework sets out that planning decisions should contribute to the natural and local environment by recognising the intrinsic character and beauty of the countryside.
14. I therefore conclude the development would lead to modest harm to the character and appearance of the appeal site and its surroundings contrary to policies S7 and GEN2 (a) of the LP which together seek to protect and enhance the character of the Countryside and is compatible with the layout and appearance of surrounding buildings. This is a matter to which I attach significant weight as part of my planning balances to follow.

Other Matters

15. The Council submitted as part of its evidence the Thaxted Neighbourhood Plan 2017-2033 (NP) and the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments 2006 (LCA). However at the hearing the Council confirmed that they were not seeking to rely upon either the NP or the LCA and that they were not relevant to the consideration of this appeal. Therefore, on this basis and in particular as the policies of the NP were not included within the Council's reasons for refusal I have not had any further regard to them.
16. The Thaxted Society (TS) have provided evidence that the site is part of Thaxted's historic narrative and place setting and should remain undeveloped in order to be part of Thaxted's history. Although I have not been provided with any evidence from the Council that the site should be considered a non-designated asset, I have no reason to dispute the evidence provided by TS about the role that the crossings have played in historic narrative of the village. However, the site does not remain as a triangular crossing and has been enclosed for a period of time, restricting vehicular access across this site. Therefore, even if the appeal were to be dismissed, there is no indication that the site would once again become part of a triangular crossing. It is clear from the evidence provided by TS that the site and its significance has been recorded and its existence will be seen on historic maps for future reference. Therefore, its role in the historic narrative will not be lost albeit that its use will continue to evolve as it has over recent times.

Other Considerations

The general need and supply of pitches

17. The PPTS requires local authorities to set pitch targets and to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against this target. In 2017 the Council undertook a Gypsy Traveller Accommodation Assessment (GTAA) which generated a 5-year pitch need of 8 pitches, when taking into account additional need for unknown households. Once this took into account those who were considered not to meet the PPTS definition this calculated a total 5-year need for 18 pitches. The evidence which the GTAA was based upon was provided in 2016 and therefore is now woefully out of date and therefore can not be relied upon as robust in terms of identifying the scale of unmet need in the district.

18. The Council does not have a criteria-based policy and from the limited evidence presented at the hearing there was uncertainty as to whether any pitches had been delivered during the plan period to meet this need. In this context, the Council acknowledge that they are unable to identify a five year supply of pitches.
19. The Council have been in the process of producing a new local plan for some time and the latest position, outlined during the hearing, is that Regulation 18 consultation should take place this month, with the plan scheduled for adoption in October 2025. The Council were unable to give an indication as to how any unmet need would be met in the future. It is therefore apparent that unmet need has posed a challenge for the Council for a considerable time and no evidence has been provided that a resolution will be provided by the emerging local plan, which still is 2 years from adoption based on current timescales.
20. In these circumstances, I afford the absence of a five-year supply of sites considerable weight as a matter in favour of the proposal.

Planning Balance

21. The Council is currently unable to meet the identified accommodation needs of gypsies and travellers and this position has existed for some time. Addressing this to a modest degree by permitting a single pitch is therefore a contribution to the undersupply and attracts weight accordingly.
22. I have given moderate weight to the harm I have identified to the character and appearance of the area, but this does not outweigh the benefits that I have outlined above.
23. In light of the above the development is in accordance with the development plan as a whole. Of the material considerations, the limited harm to the character of the area is outweighed by the general need for gypsy and traveller sites, the lack of progress made in meeting them and the uncertainty about any future provision.

Conditions

24. The Council has suggested conditions which I have considered against the advice in the National Planning Policy Framework and Planning Practice Guidance. As well as the standard implementation condition, I have imposed a condition to ensure that the proposal is carried out in accordance with the approved plan to provide certainty.
25. The Council have suggested that, if planning permission is to be granted, it should be subject to a condition limiting occupation of the site to 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 have ceased to travel permanently is discriminatory and has no legitimate aim.
26. There is no foretelling as to whether any occupiers might be forced to cease travelling permanently during the anticipated lifetime of the permission. Imposing the suggested condition would be liable to result in unlawful discrimination, with members of the community being unable to live on this site. I shall therefore grant planning permission subject to a condition which restricts occupation to Gypsies and Travellers, defined so as to not exclude those who have ceased travelling permanently.

27. To limit the visual impact the number of caravans and the size of vehicles to be kept at the site are to be restricted. For similar reasons details of landscaping, materials of the amenity building and hard surfacing, details of means of enclosure and any external lighting are also required to be submitted, agreed and implemented.
28. In the interests of highway safety, conditions securing the surfacing of the access with a bound material, restricting the position of any gates and requiring the provision visibility splays, are imposed.
29. In the interests of living conditions, a condition has been imposed to restrict commercial activities on the site and to ensure appropriate means of foul and surface water drainage is provided prior to occupation of the site.
30. I have not found it necessary to restrict the appellants permitted development rights for the erection of gates, walls and fences. As no exceptional circumstances were advanced by the Council as to the necessity for this condition and the site is adjacent to the highway on two sides which would limit the height of any means of enclosure.

Conclusion

31. I therefore conclude that harm I have identified to the character and appearance of the area is outweighed by other material considerations including the general need for gypsy and traveller sites, the lack of progress made in meeting them and the uncertainty about any future provision. Therefore, the development accords with the Development Plan, Framework and the PPTS.
32. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Allen
Mr P Brown BA (Hons) MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Gabriel BA (Hons) PGDip Urban Planning

INTERESTED PARTIES:

Mr M Culkin of The Thaxted Society

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Layout Plan Scale 1:500
 - Site Plan Scale 1:1250
 - Post and Rail Fence - Drawing No PBA 3
 - Amenity Building Scale 1:100 (*Floor Plan*)
 - Amenity Building Scale 1:100 (*Elevations*)
 - Existing access visibility splays 2210026-04
- 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) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) Prior to any caravan being brought onto the site the following details (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation:
 - a scheme for the means of foul and surface water drainage of the site, including means to prevent discharge of surface water onto the highway;
 - proposed external lighting on the boundary of and within the site;
 - proposed tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities and details of existing tree, hedge and shrub planting to be retained;
 - hard surfacing materials
 - means of enclosure
 - details of materials for amenity building

The approved scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be maintained. Any trees or other plants which within a period of 5 years from planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 7) There shall be no more than 1 pitch on the site and no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.

- 8) Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2 metres by 56 metres to the east, as measured from and along the nearside edge of the carriageway, and 2 metres by 40 metres to the west, as measured to the road junction, as shown on principle on DWG no. 2210026-04 (dated 20/12/2022). Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
- 9) Prior to commencement of the development, the road junction (Bardfield Green End / Bardfield Road) at its centre line shall be provided with a clear to ground visibility splay with dimensions of 4.5 metres by 120 metres to the east, as measured from and along the nearside edge of the carriageway, as indicated on 'site layout plan'. Such vehicular visibility splays shall be retained free of any obstruction at all times.
- 10) Prior to the occupation of the development, the proposed access shall be constructed to a minimum width of 5 metres for at least the first 6 metres from the back of highway boundary, should accommodate the swept path of all vehicles regularly using the access, and provided with an appropriate vehicular crossing of the verge.
- 11) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 12) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

END