



Appeal Decision

Site visit made on 10 January 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal Ref: APP/G5180/W/23/3318865

South View, Hockenden Lane, Swanley, Bromley BR8 7QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (Section 73) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr L Friend against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/00549/RECON, dated 14 November 2022, was refused by notice dated 3 March 2023.
 - The application sought planning permission for additional mobile home and touring caravan on existing traveller site without complying with a condition attached to planning permission Ref DC/22/00549/FULL1, dated 27 October 2022.
 - The condition in dispute is No 6 which states that: The size and siting of the static caravan hereby permitted shall accord with the submitted location/block plan.
 - The reason given for the condition is: In order to comply with the requirements of Policies 12 and 53 of the Bromley Local Plan and the NPPF (2021), and in the interests of the visual amenities of the Green Belt.
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Decision

1. The appeal is allowed and planning permission is granted for additional mobile home and touring caravan on existing traveller site at South View, Hockenden Lane, Swanley, Bromley BR8 7QH in accordance with application Ref DC/22/00549/RECON, dated 14 November 2022, without compliance with condition number 6 previously imposed on planning permission Ref DC/22/00549/FULL1 dated 27 October 2022 and subject to the following conditions:-
 - 1) The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with 27 October 2022.
 - 2) No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 shall be static caravans) shall be stationed on the site at any time.
 - 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
 - 4) The existing landscaping on the site of South View shall be retained unless agreed in writing by the local planning authority.
 - 5) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Preliminary Matters and Main Issue

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. Also on the same date, the government published an amendment to the Planning Policy for Travellers Sites (PPTS) and the definition it contains for Gypsies and Travellers. In light of the factors relevant to this appeal, it is unnecessary in the interests of fairness to invite comments from the main parties on the Framework and the PPTS revision.
3. Planning permission was granted in 2015 for the appeal site to be permanently used for the siting of 2 static mobile homes for residential use and 1 horse drawn wagon (the 2015 permission). In October 2022, planning permission was granted to allow an additional mobile home and touring caravan to be positioned on the site (the 2022 permission). This is subject to the disputed condition. For clarification, I have treated the phrase "static caravan" in condition 6 as having the same meaning as "additional mobile home" as included in the description of the 2022 permission. I have used the phrases interchangeably in this decision.
4. In light of the Council's refusal reason, the main issue is whether the disputed condition is necessary having regard to the effect of the development on the character and appearance of the Green Belt.

Reasons

5. The appeal site is allocated as a Gypsy and Traveller site in the London Borough of Bromley Local Plan 2019 (LP). It is an inset within the Green Belt so the site is outside but adjoins the Green Belt on all sides. It is the Council's contention that, without the disputed condition, the proposed static caravan could be detrimental to the visual amenities of the Green Belt.
6. On my visit, I saw static homes on the plot in line with the development allowed under the 2015 permission. The location/block plan shows the proposed additional mobile home would be in the vacant corner of the site. Fields lie to the south and east, an access track with fields to the north and a separate Gypsy and Traveller site to the west.
7. The adjacent open fields allow views towards the site. However, hedge and bush planting on and near the southern, eastern and northern boundaries enclose the plot so as to provide a good level of screening to the caravans. Moreover, the proposed additional mobile home would be seen in the context of the existing caravans on the site. Even if the extra mobile home is placed so as to be visible from the adjacent fields, it would not appear markedly at odds with its context. Irrespective of its position on the site, the mobile home would not cause detriment to the visual amenities of the adjacent Green Belt.
8. The location/block plan provides details on the footprint dimensions of the static caravan. Without the disputed condition, a larger caravan than that indicated could be stationed on the site. However, condition 3 of the 2022 permission ensures only caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the land. Even if the disputed condition is removed, condition 3 would prevent the stationing of caravans of a length, width or height that do not comply with the stipulations as set out in the aforementioned legislation.

9. Furthermore, given the screening effect of the boundary vegetation as well as the context provided by the existing caravans, I am satisfied a larger mobile home would avoid harm to the visual attractiveness of the area. Also, the caravans proposed under this appeal would be outside the Green Belt. Regardless of its size, the mobile home would not affect the openness of Green Belt land.
10. The Council refers to the conditions attached to the temporary planning permissions granted following appeals for the neighbouring site. These include requirements that the development be carried out in accordance with approved plans. However, there is no condition similar to that subject of this appeal and which specifically restricts the size and siting of any static caravan. Moreover, the Inspector's justification for imposing conditions fails to refer to the need to safeguard the visual amenities of the Green Belt. As such, these appeal decisions fail to support a need for the disputed condition.
11. For the above reasons, I conclude the appeal development would avoid harm to the character and appearance of the Green Belt without the restrictions imposed by the disputed condition. Therefore, the disputed condition is not needed to ensure the development would accord with LP policy 53. The stated reason for condition 6 also mentions LP policy 12 but this is not referred to by the Council in support of its case. Therefore, I find the imposition of the disputed condition is not required to ensure compliance with LP policy 12.

Conditions

12. By allowing this appeal a new planning permission is granted. The Planning Practice Guidance states that decision notices for the grant of planning permission under Section 73 should repeat relevant conditions from the original planning permission unless they have already been discharged. Therefore, as a starting point, I am minded to re-impose the same conditions on this planning permission, apart from condition 6.
13. However, planning permission granted under Section 73 should not extend the time period within which the development must start. Accordingly, condition 1 is amended to ensure the development hereby allowed is begun within 3 years of the date of the 2022 permission.
14. Also, I have sought the main parties' views on the necessity of condition 2 attached to the original planning permission. This requires the development to be carried out in complete accordance with "the plans approved under this planning permission unless previously agreed by the local planning authority". The condition does not identify the referred to approved plans by drawing number and so it is imprecise.
15. Furthermore, the only plan provided to me through the appeal process is the location/block plan referred to in condition 6. To my mind, condition 2 has largely the same effect as condition 6 in terms of restricting the position and size of the additional mobile home, although it also relates to the touring caravan. I see no reason why these caravans need to be positioned on the site as exactly shown on the location/block plan in the interests of visual or residential amenity, particularly given my findings on the main issue and the enclosed nature of the appeal site. Therefore, I find original condition 2 is not required in order to ensure the development is acceptable in planning terms and so it is not re-imposed. Conditions 3, 4, 5 and 7 from the 2022 permission

have been included but re-numbered to take account of the omission of original conditions 2 and 6.

Conclusion

16. As I have found condition 6 attached to the 2022 permission is unnecessary, I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR