



Appeal Decision

Hearing held on 9 April 2024

Site visit made on 9 April 2024

by Helen Hockenhull BA(Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2024

Appeal Ref: APP/L3245/W/23/3334142

Land east of Knowle Bank Farm, Priorslee Road, Shifnal, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Stuart Broadley against the decision of Shropshire Council.
 - The application Ref 23/01556/FUL, dated 3 April 2023, was refused by notice dated 1 June 2023.
 - The development proposed is the change of use of land to a mixed use for the stabling of horses and as a residential caravan site for two gypsy families, each with two caravans including no more than one static caravan, laying of hardstanding and erection of two ancillary amenity buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. In addition, an update to the Planning Policy for Traveller Sites (PPTS) was also published amending the definition of Gypsies in Annex 1. I take account of them in this decision.
3. The Council and the appellant have prepared a Statement of Common Ground (SoCG) setting out the areas of agreement and areas of dispute. One area of disagreement relates to the Gypsy status of the appellant and the other family who are to occupy one of the proposed pitches on the site.
4. The Council's Gypsy and Traveller Liaison Officer is not aware of either family from his work in the County and cannot therefore confirm their status. At the hearing the appellant confirmed that he and his family had a long-standing Gypsy heritage. The appellant is a roofer and both he and his sons, as well as the head of the other household, travel for work in the West Midlands and Shropshire areas. I was advised that the other family have relatives in the Shifnal area, this being one of the reasons they wish to relocate to the appeal site.
5. There is no clear-cut evidence to put the question of the occupier's Gypsy status beyond doubt. I appreciate the difficulties in providing this. I take account of the fact that should the appeal be allowed; a condition could be imposed to restrict the occupation of the site to those meeting the definition of Gypsies or Travellers in the Planning Policy for Traveller sites. If the occupiers were not Gypsies, they would be in breach of this condition.

6. In conclusion I accept, on the balance of probabilities, that the intended occupiers of the site are Gypsies.

Main Issues

7. The main issues in this case are:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) including its effect on openness and the purposes of the Green Belt; and
- whether the proposal meets locally specific criteria for Gypsy and Traveller sites;
- whether the proposal preserves or enhances the character or appearance of the Haughton Conservation Area and whether it causes harm to the setting of heritage assets in the locality;
- the effect of the proposal on ecology;
- If it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Background and Planning History

8. Planning permission is being sought for the change of use of the land to a mixed use for stabling and a residential caravan site for two Gypsy families, each with two caravans including no more than one static caravan/mobile home, laying of hardstanding and erection of two amenity buildings.
9. Currently the site is occupied by a stable block constructed in 2018 and two dilapidated mobile homes used by the previous landowner in connection with an equine use. They were not occupied for residential purposes. There is also an area of existing hardstanding around the stable block though I observed on my site visit that much of this is now overgrown with grass. The Council confirmed at the hearing that the stable block does not have planning permission but because of its age it is now immune from enforcement action.
10. The appeal site is located within the Green Belt and lies to the south of the Haughton Conservation Area, south west of the Grade II* listed Haughton Hall and to the east of Knowle Bank Farm, a non-designated heritage asset.

Inappropriate development

11. The Framework is clear that the government attaches great importance to Green Belts and that their essential characteristics are their openness and permanence.
12. Policy E of the PPTS specifically defines traveller sites as inappropriate development in the Green Belt (paragraph 16). The parties agree in the SoCG that in principle the proposal forms inappropriate development in the Green Belt.

13. Notwithstanding the above, there was some debate at the hearing with regard to whether the proposal could be considered as a rural exception site. Paragraph 154 of the Framework sets out exceptions where new buildings in the Green Belt would not form inappropriate development, part f) being limited affordable housing for local community needs including rural exception sites. These are defined as sites addressing the needs of the local community by accommodating households who are current residents or have an existing family or employment connection. Policy CS12 of the Shropshire Core Strategy which relates to Gypsy and Traveller provision, amongst other things, supports suitable development proposals for small exception sites (under 5 pitches) in accordance with Policy CS5 where a strong local connection is demonstrated.
14. The Council's second reason for refusal, assumes that a rural exception site is being applied for and states that the applicant has failed to identify a strong local connection as required by the third bullet point of Policy CS12. However, the original planning application did not seek permission for a rural exception site and unsurprisingly included no supporting information to demonstrate the required local connection. It is my view that whilst the appellant does some work in the area and has an economic connection, because a rural exception site was not applied for, the second reason for refusal falls away. Part f) of paragraph 154 of the Framework does not apply, and therefore gives no support to the appeal proposal.
15. Accordingly in summary, I find that the appeal submission forms inappropriate development in the Green Belt as set out in the Framework.
16. Turning to openness, this is an essential characteristic of the Green Belt. It has a visual dimension as well as a spatial aspect. I observed on my site visit that the appeal site is well set back from the road, accessed from a private track. It is very well screened by existing hedgerows and vegetation such that it is not visible from public viewpoints. The proposal includes additional boundary planting and landscaping to the north, east and western boundaries of the site which would further screen the proposal. I therefore conclude that the proposal would cause no harm to the visual dimension of the Green Belt.
17. In spatial terms, whilst I acknowledge the presence of the existing stable building, an area of hardstanding and the two derelict mobile homes, the proposal would introduce further built development on to the site. In particular, the addition of the two touring caravans, the two amenity buildings and the extension of the hardstanding area. There would also be an element of domestic paraphernalia from the residential use of the site.
18. As a result, the scheme would further urbanise the site, leading to a loss of openness. The harm caused to the Green Belt would be significant.
19. The five purposes of the Green Belt are set out at paragraph 143 of the Framework. As part of the evidence base for the emerging Local Plan the Council commissioned a Green Belt Assessment which considered the performance of Green Belt across Shropshire by dividing it up into parcels of land for assessment against the five purposes. The appeal site lies in Parcel P10, a much larger area of land to the west of Shifnal and east of Telford. The Assessment concluded that this parcel made a strong contribution to preventing neighbouring towns coalescing, a moderate contribution to safeguarding the countryside from encroachment and a strong contribution in

preserving the setting and special character of historic towns and also to assist in urban regeneration.

20. Whilst I have noted the above, the appeal site forms only a very small part of Parcel 10, and it cannot be argued that in isolation, it would have the same impact on the Green Belt purposes. Nevertheless, the proposal would introduce built development into the countryside. In doing so, and impinging on openness as described above, the proposal would not be consistent with the Green Belt purpose of safeguarding the countryside from encroachment. Given the size of the site in relation to the wider Green Belt in which it sits, the harm caused in this regard would be limited.
21. Bringing matters together, I find that the proposal would form inappropriate development for the purposes of national Green Belt policy as set out in the Framework. It would also fail to preserve the openness of the Green Belt and conflict with one of the purposes of including land within it. This harm attracts substantial weight as set out at paragraph 153 of the Framework. It would also be contrary to Core Strategy Policy CS5 which seeks to strictly control new development in accordance with national planning policies.

Locally Specific criteria for Gypsy and Traveller sites

22. Shropshire Core Strategy Policy CS12 provides locally specific guidance for Gypsy and Traveller provision. It sets out five bullet points which seek to address the accommodation needs of this sector of the community, three of which are relevant to this appeal. The third bullet point provides for small exception sites which I have already discussed above.
23. The second bullet point supports suitable development proposals for sites close to Shrewsbury, the Market Towns and Key Centres, Community Hubs and Community Clusters. Shifnal forms a Key Centre. As the appeal site lies outside the settlement, the question is whether the site is 'close to' the settlement as required by the policy.
24. There is no definition in the supporting text as to what this means. However, the fifth bullet point of the policy, amongst other things, seeks to ensure that sites are reasonably accessible to services and facilities.
25. It is agreed in the SoCG that the appeal site is approximately one mile from Shifnal to the east and within a mile of Telford Services to the west. Shifnal contains a supermarket, schools, other shops, a medical practice and a rail station. The service area contains a supermarket and food outlets. The parties agree that the appeal site is reasonably accessible to services and facilities. A position with which I concur. This leads me to conclude that the appeal site can also be viewed as being 'close to' a key service centre.
26. Bullet point 5 also requires development to incorporate suitable design and screening, have suitable access, areas for manoeuvring caravans and parking and make provision for essential business purposes and recreation facilities. Sites must also meet the requirements of Policy CS6, (Sustainable Design and Development Principles) and the critical infrastructure provision of Policy CS9. I have no evidence before me to suggest that the proposal does not comply with any of these policy requirements.
27. In conclusion, given the above, I find no conflict with any of the relevant criteria in Policy CS12.

Heritage Assets

28. The appeal site lies to the southwest of Haughton Conservation Area (CA) and the Grade II* listed Haughton Hall and to the east of Knowles Bank Farm a non-designated heritage asset.
29. The original planning application was not accompanied by a Heritage Impact Assessment which led to the Council's third reason for refusal that the development would result in harm to nearby heritage assets.
30. The CA encompasses the small hamlet of Haughton and includes Wesley Brook which forms part of its southern boundary. The hamlet has a strong rural character with frequent views of the open countryside and a verdant appearance. This arises from the semi-natural vegetation that flanks the brook as well as the mature vegetation that is present in its generous gardens. Its buildings are generally large and set back from the road behind coursed stone rubble and brick boundary walls. Given the above, I find that the significance of the CA to be primarily associated with its loosely arranged dwellings, distinctive boundary walls and mature trees.
31. The appeal site is separated from the CA by dense woodland either side of the brook. This creates a visual barrier between the two. I am satisfied that having regard to the distance between the appeal site and the CA, as well as the existing screening, that the scheme would cause no harm to the character or appearance of this heritage asset.
32. Haughton Hall is located around 300 metres to the east of the appeal site. It was originally a house, then a school and is now a hotel and leisure club. Listed in 1955, it was constructed around 1718 and has early 19th and 20th century two storey flanking wings. This red brick two storey country house has a seven-bay frontage with early 19th century stucco facing. Its significance derives from its architectural and historic interest.
33. The Hall is set in lawned gardens surrounded by woodland. It is orientated north south so that the main façade faces toward the access drive and the rear faces lawns and open fields. Views from the Hall to the east and west are contained by woodland which make a significant contribution to its setting.
34. I observed on my site visit that there is no intervisibility between the Hall and the appeal site. Accordingly, it is my view that the appeal site does not contribute to the building's setting and therefore causes no harm to its significance.
35. Knowle Bank Farm lies around 100 metres to the east of the appeal site. This farmstead, now converted to residential use, is recorded on the historic environment record as part of both the 1982-83 Farm Buildings Survey and the later Historic Farmsteads Characterisation Survey. As a result of the separation distance, the intervening stable building and proposed landscaping, I am satisfied that the proposal would cause no harm to this non designated heritage asset.
36. In conclusion, the appeal scheme would preserve or enhance the character or appearance of the Haughton Conservation Area and cause no harm to the setting of heritage assets in the locality. In this regard the proposal complies with section 16 of the Framework as well as Policies CS6 and CS17 of the Core

Strategy 2011 and Policy MD13 of the SAMDev Plan 2015 which seek to conserve and enhance the historic environment.

Ecology

37. The Council raised concern that an ecological impact assessment has not been undertaken and therefore it cannot be said that the proposal would protect and conserve the natural environment. The appellant submitted a copy of an Ecological Statement with the appeal submission. This was prepared by a local resident's group to determine the ecological value of land around Knowle Bank Farm.
38. The survey did not however specifically look at the appeal site, though it did survey the access to the site. This is bounded by mature hedgerows and the Statement concludes that it provides an excellent dark corridor for nocturnal wildlife such as bats and larger mammals.
39. Clearly, the existing hedgerows to the southern site boundary are important to provide a wildlife corridor. A section of this would need to be removed to create the access to the site. It is proposed to plant new hedgerow to the north, east and west boundaries which would replace that to be removed and more.
40. I accept that the appeal site forms hardstanding and grassland which is likely to be of poor ecological value. However, without an appropriate appraisal, the value of the site, including the boundary hedgerows, the impact of the development and any necessary mitigation has not been assessed.
41. In summary, I conclude that the proposal fails to comply with paragraph 180 of the Framework and also Policies CS6 and CS17 of the Core Strategy and Policy MD12 of the SAMDev Plan. These policies seek to conserve and enhance the natural environment and minimise impacts on biodiversity.

Other considerations

The need and supply of Gypsy sites

42. The Council's Gypsy and Traveller Accommodation Assessment Update (GTAA) 2019 estimates a cultural need for 113 permanent pitches in the period 2016/17 to 2037/38, of which 42 pitches are required to accommodate Gypsies and Travellers who comply with the PPTS definition.
43. The GTAA concluded that there was no need to allocate new Gypsy and Traveller Sites in the emerging Local Plan as the level of turnover on public sites was sufficient to accommodate future needs. High levels of turnover on public sites are to an extent to be expected as many Gypsy families wish to have their own site. The PPTS seeks to increase private site provision. Relying on turnover on public sites does not meet this need, though I accept that such sites can be provided through the development management process.
44. The GTAA states that there is an annualised cultural need of 5.1 pitches¹. The Council advised at the hearing that between 2019 and 2023, planning permission was granted for 23 pitches. This represents a slight shortfall on the cultural need figure for this five-year period, ie. 25 pitches.

¹ Paragraph 7.29

45. The GTAA supports the emerging Local Plan which at the time of the hearing was still being examined. I understand that the GTAA Update was scrutinised by the emerging Local Plan Examining Inspectors and the Council were asked to undertake some further work. This evidence is not before me.
46. I am conscious that the 2019 GTAA is based on survey work undertaken in 2017 and is therefore dated. It cannot be ruled out that the actual need may well be different to the GTAA and trends in relation to turnover may have also changed. The Council advised at the hearing that there are currently vacancies on two public sites which may indicate a continuing turnover of pitches and no lack of supply. However, this is clearly only a snapshot in time and only part of the overall picture of need.
47. The PPTS requires that local planning authorities identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. At the hearing the Council were unable to provide such a figure or identify sites, perhaps understandably due to the reliance on turnover. A reliance on turnover does not represent positive planning to meet an acknowledged need and does not equate to deliverability in terms of national policy.
48. I appreciate that the Council's further evidence of need is still being assessed in detail through the Local Plan examination. However, based on the evidence before me in this appeal, I can only conclude that at the current time, a five-year supply of Gypsy and Traveller sites has not been demonstrated.

Alternative accommodation

49. The Council advised that at the time of the hearing there were three available pitches on the Park Hall public site and also availability at Craven Arms, though the actual number of pitches at the latter site was uncertain.
50. The appellant keeps horses and therefore would need a site where grazing would be available at the site or nearby. This is not the case with the public sites suggested. I was not made aware if any private sites being available.
51. Therefore, given the above, I conclude there are no suitable alternative sites in the Shropshire area available to the intended occupiers of the site. The lack of suitable alternative accommodation weighs in favour of the appeal.

Personal circumstances

52. The appeal site provides two pitches. The first pitch is to be occupied by the appellant, his wife and three children. All the children are adults and in employment. The appellant's wife is also a carer for her disabled sister who lives there. The appellant is currently renting a site and grazing land in Bromsgrove, and I was advised has been given notice to vacate.
53. The second family comprises two parents and three children aged 13, 11 and 10. They are currently living on a site in Solihull with relatives. This is however a temporary solution, and they need to move to a permanent more suitable site. The two older children are tutored, and the youngest child attends a local primary school where they currently live. A settled permanent base would clearly be of benefit for the children's ongoing education.

54. I heard evidence of the appellant's health issues and that of his disabled sister-in-law who I was informed was currently in hospital but due to be discharged very soon. I understand that the father of the second family also has some health issues. A settled base would ensure continuing access to a GP and hospital facilities. I give significant weight to these health needs. The other intended occupants of the site are all registered with local doctors where they currently reside.
55. Clearly access to education and healthcare would be advantageous to the wellbeing of the two families and would be in the best interests of the children. These matters count in favour of the proposal and accord with the aims of the PPTS to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

56. The Framework attaches great importance to the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
57. The proposal would be inappropriate development in the Green Belt and as such would cause substantial harm. I have found that it would also cause significant harm to openness and limited harm to one of the purposes of the Green Belt, the protection of the countryside from encroachment. Furthermore, the lack of harm to ecology matters has not been demonstrated. These factors attract substantial weight against the scheme.
58. However, set against this are several considerations which weigh in favour of the development. These include the lack of a five-year supply of Gypsy and Traveller sites in the area, the lack of alternative sites suitable for the appellant's family and the other intended occupants, and the contribution that the site would make to the supply of Gypsy and Traveller sites.
59. As set out above, the personal circumstances of the appellant and the other proposed occupants, the provision of a settled and permanent base, the access to education and health facilities and the ability to care for their horses are benefits of the proposal which count in its favour.
60. The proposal would be located relatively close to Shifnal, a Key Centre, which would provide access to services and facilities. The site would therefore meet the sustainability considerations of paragraph 3 of the PPTS. I have found in this respect that the site would also meet the requirements of Policy CS12. However, the absence of harm in this regard counts neither for nor against the proposal. The lack of harm to nearby heritage assets also forms a neutral matter.
61. At the hearing the Council suggested a 12-month temporary permission. The appellant suggested that a three-year temporary permission would be more appropriate if I were to consider this to be justified in this case. Such a permission with a limited period would to some extent lessen the scheme's

impact on the Green Belt and reduce the amount of resultant harm. Such a permission may be justified if it can be demonstrated that there would likely be a change of circumstances in the future, such that alternative sites outside the Green Belt could be available to the appellants. At the moment the emerging Local Plan is not allocating any sites for Gypsy and Travellers and therefore it is uncertain that site availability would improve when the plan is adopted.

62. A further consideration is the financial investment that would be required before the site could be occupied, such as the provision of a wastewater treatment plant and other services. This would certainly not be viable for a 12-month temporary period. I also bear in mind the harm to the Green Belt that would be caused even on a temporary basis. Taking all these factors into account, I consider that a temporary permission is not justified.
63. I have also given consideration to whether a personal permission would be appropriate, restricting the occupation of the site to the intended occupiers. I take account of Policy E of the PPTS which advises 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. Accordingly, in this case I do not consider a personal permission to be justified.
64. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the appellant's individual rights for respect for private and family life (along with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.
65. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since I have found the appellant and occupiers of the site to have Gypsy status, Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 (1) of the Act.
66. To dismiss the appeal would disrupt the education of the three youngest children and the healthcare of the appellant and his sister-in-law. The negative impacts of dismissing the appeal arise since the families may be forced to leave where they are currently residing and take up a roadside existence or occupy an unauthorized site. This would interfere with the best interests of the children and each member of the family's right for respect for private and family life and lends some additional weight in favour of the appeal.
67. However, I have found that the proposal would cause substantial harm to the Green Belt, harm to openness and would result in encroachment into the countryside. I am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect Green Belts and the countryside in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the appellant and the families concerned are necessary and proportionate.

68. Given the above, the other considerations in this case and the benefits of the proposal, even taking into account the family's Article 8 rights and the PSED considerations, do not clearly outweigh the totality of the harm identified. As such, the very special circumstances necessary to justify the development do not exist.

Conclusion

69. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Philip Brown

Philip Brown Associates Ltd

Stuart Broadley

Appellant

FOR THE LOCAL PLANNING AUTHORITY

Louise Evans

Principal Planning Officer

Daniel Corden

Principal Policy Officer

Anna Jones

Senior Policy Officer