



Appeal Decision

Hearing held on 30 April 2024

Site visit made on 30 April 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/N1920/W/23/3332125

Land adjacent to Bridgefoot Cottages, Watling Street, Radlett, Hertfordshire, AL2 2EJ

- 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 Mrs Theresa Lane against the decision of Hertsmere Borough Council.
 - The application Ref is 22/1897/FUL.
 - The development proposed is the use of land for the stationing of caravans for residential purposes and the erection of a dayroom and laying of hardstanding ancillary to that use.
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Decision

1. The appeal is allowed and planning permission is granted for use of land for the stationing of caravans for residential purposes and the erection of a dayroom and laying of hardstanding ancillary to that use at Land adjacent to Bridgefoot Cottages, Watling Street, Radlett, Hertfordshire, AL2 2EJ, in accordance with the terms of the application, Ref 22/1897/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal was submitted with an alternative site layout plan¹ and updated noise assessment². The revised layout plan depicts relatively minor changes to the arrangement of the site compared to that previously submitted. Both have been accepted, having regard to the Wheatcroft principles³, and their consideration as part of the appeal is not prejudicial to any interested parties.
3. The agreed Statement of Common Ground⁴ (SoCG) sets out the Council's withdrawal of the fourth reason for refusal relating to noise, subject to suggested conditions. As it became clear at the hearing that the suggested conditions needed further refinement, an amended agreed noise condition was provided in writing a short while after the close of the hearing. I have assessed the appeal on the agreed position of the main parties in this regard.
4. Following removal of trees, a timber close boarded boundary fence of around 1.8 metres high had been constructed around the site without planning permission, which was reportedly the subject of an ongoing enforcement investigation. The proposal includes some form of fence enclosure around the

¹ Ref 003-P02, dated 25.09.23

² Ref 23405, dated 20.10.23

³ Wheatcroft Ltd V SSE [1982]

⁴ Dated 26.04.24

site, potentially inside some soft landscaping, and thus, I have not treated the fence in situ as strictly forming part of the proposal. Details of the form and position of any boundary treatments would be a matter left to a planning condition.

Main Issues

5. Given the agreement in the SoCG that the proposal would, by definition, represent inappropriate development in the Green Belt, the main issues are as follows:
- the effect of the proposal on the openness of the Green Belt and extent of conflict with the purposes of including land within the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - the general need for and supply of pitches in the area;
 - the Appellant's family circumstances and their collective need for accommodation; 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

6. The site is an undeveloped parcel of broadly flat ground, fronting onto the A5183 Watling Street and around 1km from the centre of Radlett. The site is well outside of the settlement boundary and visual built limits of Radlett. However, the site is close to a number of commercial and residential premises which exist between Radlett and the settlements of Colney Street and Frogmore. Due to the close proximity of these settlements to one another, the busy road network connecting the settlements and the extent of varied ribbon development along the A5183, the area has an urban fringe character. This urban fringe character exists despite the area's verdant qualities and the generous extents of countryside to the west, which does at least maintain some separation between Radlett and Colney Street.
7. I understand that the site was previously occupied by trees and that these have been removed in two phases, the road frontage trees being those removed most recently around 2023. The site is currently denuded but has been enclosed by a timber close boarded fence, partially inset behind the access and visibility splay. The proposal would include some form of similar timber fence, possibly set behind hedging, and the built, non-moveable features would include the hardstanding, day room and any further associated enclosures. The moveable features would include the caravans, vehicles and any other domestic paraphernalia.
8. Through a combination of fixed development and moveable features associated with a residential use of land, there would be harm to the openness of the Green Belt. The small scale of the site and its spatial and visual relationship to other development would minimise the extent of harm to openness to that of a limited to modest degree.

9. In terms of the conflict with the purposes of including land within the Green Belt, I share the view of the main parties, is that there would be no conflict with purposes d) or e) of paragraph 143 of the National Planning Policy Framework (the Framework) (2023). However, there would be some degree of conflict with purposes a), b) and c) which respectively seek to check the unrestricted sprawl of large built-up areas, prevent neighbouring towns merging and assist in safeguarding the countryside from encroachment. In my view, the most relevant Green Belt purpose to this particular site is purpose b), to prevent towns merging with one another, and in that I classify Radlett, and Colney Street/Frogmore as towns that fit under such a definition and which was a point belatedly raised at the hearing by the appellant.
10. However, in summary, there would be a conflict with at least two purposes of including land within the Green Belt and harm to openness.

Character and appearance

11. The evidence indicates that the site was once a pocket of trees which adjoined another treed area with a footpath running through it. Undoubtedly, before the removal of the trees, the site would have contributed positively to the character and appearance of the area, adding to the tree-lined road character along Watling Street and screening the cottages to the rear. That the site no longer has these trees, or at least the road frontage trees, has undermined the contribution that it makes to the area.
12. The character and appearance of the site at present is best described as a somewhat unfinished article. A scrubby area of vegetation surrounded by a timber close boarded fence of around 1.8 metres high which appears harsh, incongruous and does little for the quality of the streetscene. The retention of the fence is not strictly a part of this proposal, although a fence of a similar nature is likely to be needed somewhere, even if inset behind some hedging.
13. Despite being a residential use consistent with the adjacent cottages, the introduction of the use of land for the stationing of caravans would further urbanise the site and in a manner which would not assimilate well with its surrounding context which is more of a characterful bricks and mortar form.
14. However, at a single storey height and with the potential to be better enclosed by replacement soft landscaping, the extent of visibility of such harm would be minimised to a degree.
15. My overall conclusion on this matter is that the proposal would have a harmful urbanising effect on the character and appearance of the area. Whilst the imposition of a landscaping scheme would assist with softening such effects, it would take some time to establish and would be constrained by the areas that would be given over to the proposal. That said, the small scale of the site and limited nature of the proposal, considered in the context of the varied character of the wider surroundings, my overall finding is that there would be moderate harm at a localised level. Such harm is in conflict with, in particular, Core Strategy Policies SP1, CS12 and CS22, Policy SADM30 of the Site Allocations and Development Management Policies Plan (SADMPP) and Policy HD3 of the Radlett Neighbourhood Plan (RNP) (2021). Amongst other things, these Policies collectively seek to ensure that proposals are of high quality design and appropriate in scale, appearance and function to the local context, take

advantage of opportunities to improve the character and quality of an area and make a positive contribution to the built and natural environment.

Need for and supply of pitches

16. The Planning Policy for Travellers Sites (PPTS) (2015)⁵ sets out that local planning authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. The set targets in the current Core Strategy in Policy CS6 seek only to deliver two pitches a year after 2011 up until the year 2017. The second part of Policy CS6 provides some criteria against which windfall traveller proposals can be assessed. However, in my view, CS Policy CS6 is largely out of date through not just its relevance to a period of time which has elapsed, but through the detailed criteria which do not sufficiently align with the PPTS.
17. The Council's most recent Gypsy and Traveller Accommodation Assessment dates back to 2017 (GTAA) with a base date of March of that year, and was produced as part of the formulation of a now set aside Local Plan. An up-to-date replacement GTAA is to be commissioned as part of the Council's policy formulation process towards adoption of the emerging Hertsmere Local Plan (eHLP). Nonetheless, given that the published GTAA of 2017 is about 7 years old and as there has been a change in the approach to the definition of travellers in the PPTS since then, I am wary of relying on any predictions it contained about the need for pitches. Put simply, it is out of date.
18. The appellant produced some evidence to indicate that there was a need of 94 pitches as at the base date; a figure far in excess of that in the Council's GTAA. The appellant's evidence also indicates that as at 2023, there was a need for 114 total pitches, set against a supply of 53 pitches, thus leaving an immediate unmet need of 61 pitches. For 2024, this immediate unmet need increases from 61 to 75 pitches. The Council agree that there is an immediate unmet need.
19. In terms of supply, the Council did not dispute the appellant's offered figure of 53 as at the base date, with no permissions having been granted since then.
20. Other than through windfall sites such as this, there will be no yield of additional pitches until the Council has formulated a policy response in the eHLP, or unless applications premised on the eHLP are submitted and approved as it progresses, when sufficient weight can be attributed to such emerging policies. The updated evidence⁶ concerning the eHLP process indicates that the Council hope to proceed to adoption by 2026, though time slippage in such processes is a common occurrence.
21. In view of the above, it is of no surprise that the main parties agree that the Council are unable to demonstrate a five year supply of traveller sites as it is required to do under the PPTS and that there is a significant immediate unmet need for pitches in the borough. Ultimately, a significant immediate unmet need is just that. It is not described as acute or chronic, but should be treated with the seriousness that such a level of need demands.
22. Agreement was also reached that there has been a clear ongoing failure of policy and that the preponderance of Green Belt in the borough will result in

⁵ PPTS paragraph 10

⁶ Document 3

the likelihood of Green Belt sites being used in the future to meet the unmet need. Finally, notwithstanding any freedom to exercise choice in such matters, it was agreed that the Council could not identify any suitable, alternative, available sites for the appellant.

23. Taken collectively, these matters attract substantial weight in the balancing exercise, to which I return below.

Personal need and circumstances

24. The appellant currently resides outside of the borough on a pitch doubled up with her brother (site owner) and has done so since the passing of her late husband, around 6 years ago. Her brother and his wife have six children, the appellant has five resident children. There are therefore two households with a total of 14 people on a pitch, which is allegedly deficient of any greenspace on which the children can play.
25. With 3 children, one with special needs, and 2 grown children (over aged 18), I can understand how the family have benefitted from the support of extended family over recent years, despite the degree of overcrowding. I can also understand that given the ages and needs of the children now, the family may be ready to regain some space and independence, which the appeal site could offer. I understand that the appellant's 10 year old son will attend a school local to the site in the event they are permitted to move. The youngest daughter will remain at her specialist school, which is broadly equidistant between their current home and the appeal site. Registrations with doctor's surgeries can be moved more local to the appeal site.
26. The appellant has no financial means to purchase a site of her own and her evidence indicates that there are no Council-owned pitches available for her. This is certainly true of the situation in Hertsmere as the Council acknowledge. The options for the appellant and her family to move forward with their lives are hampered by such limited culturally-appropriate accommodation options within reach of family that will continue to support them. The alternative to them being granted permission for a pitch of their own is likely to result in a status quo situation; the overcrowded pitch would continue to be overcrowded and as the children grow older, this sense of overcrowding would be exacerbated, with relationships placed under strain, particularly in light of the appellant's youngest child's particular needs. I am of the view that the appellant has a legitimate need for accommodation for herself and her children now which is not being appropriately met.
27. The Human Rights Act⁷ establishes a right to respect for private and family life and the Public Sector Equality Duty (PSED)⁸ 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.
28. Having regard to these rights and duties, it is clear to me that there would be advantages for the general wellbeing of the family by having a spacious and settled base of their own with its attendant amenities. This would allow them

⁷ Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act (1998)

⁸ Public Sector Equality Duty under the Equality Act, 2010

the chance to prosper as a family unit with a reduced reliance on wider family. This would be in the children's best interests. In stark contrast to the benefits outlined above, dismissal of the appeal would, be a negative outcome for the family and extended family for the reasons given above.

Other Matters

29. A number of representations were submitted by local residents and the Radlett Society and Green Belt Association in connection with the application and appeal and were reiterated in person at the hearing. I have taken these into account in reaching my decision where not addressed as part of the main issues above.
30. One of the key points reiterated by local residents was that the site had been turned from a green area of woodland to an eyesore through the removal of the trees and construction of the existing fence. I understand the sense of loss and longing for the return of greenery to soften the site's current harsh appearance. The point about how the proposal would be visible from the windows of bedrooms of the nearby cottages is understood, but what would be visible at an acceptable distance would be a residential use of land within an urban fringe context. A caravan, whilst not a typical bricks and mortar house, should not need to be screened from view and the visual relationship between the sites would be at such a distance that such a residential use would not be intrusive or result in a material loss of privacy. The use of landscaping could offer further privacy protection to neighbours and the site occupants. In a similar vein, I see no reason to conclude that the proposal and the nearby nursery would be incompatible in land use terms or in terms of any direct effects.
31. I have considered the points made about the planning history of the site and findings in connection with the highways impacts of those proposals. I have to consider the merits of the proposal before me, which materially differs from the previous proposal. The scheme before me has not attracted any objection from the Council's highways specialist and I find no reason to reach an alternative conclusion.
32. The position of the footpath is noted and I do not have reason to believe that it is currently obstructed in any way by any actions of the appellant or site owner. The requirement under separate legislation to keep the footpath clear of obstruction is noted. Similarly, the existence of drainage infrastructure beneath the site is not a matter that has been raised by any statutory undertaker responsible for such and is a matter that is also controlled by separate legislation.

Noise

33. The site is in close proximity to a railway line and a tarmac facility⁹ which is a safeguarded minerals site. Objections were raised in connection with the application from the Council's Environmental Health Officer and the business operators based on the originally submitted noise survey that could not demonstrate an adequate internal or external noise environment for future occupiers, and thus, potentially harmful to the operation of the tarmac facility under the agent of change principle.

⁹ Tarmac Harpers Lane Asphalt Plant and Tyttenhanger Concrete Plant

34. On the submission of the updated noise survey¹⁰, these concerns have been largely addressed but there is a potential need for higher performance windows to be inserted or a simple fence to create a quieter garden area to bring the noise levels within the acceptable upper limits. A condition has been agreed that would secure the implementation of any necessary additional mitigation measures and places the responsibility on any future occupiers to achieve these levels without burdening nearby existing businesses.

Planning balance

35. Taken together, the definitional harm to the Green Belt, the harm to openness and harm to at least two Green Belt purposes bring the scheme into conflict with Policy CS13 of the Core Strategy (2013) and Policy SADM26 of the SADMPP (2016), which together seek to protect the Green Belt from development unless very special circumstances exist and seek to avoid harm to its openness. For similar reasons, the proposal would also conflict with the Framework.
36. In accordance with the Framework, substantial weight must be given to such harm to the Green Belt. The development would also cause moderate localised harm to the character and appearance of the area, contrary to Core Strategy Policies SP1, CS12 and CS22, Policy SADM30 of the SADMPP and Policy HD3 of the RNP. Therefore, the scheme is contrary to the development plan, when considered as a whole.
37. 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, with continued access to education and healthcare facilities but without the overcrowded conditions to which they have been exposed for a long period.
38. 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 an agreement that there is a significant, immediate unmet need. Given the uncertain policy response and timeline for implementing such, the unmet need is likely to persist for some while into the future. These factors, combined with the family's circumstances, attract great weight.
39. 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

40. Dismissing the appeal would have an adverse effect on the appellant and her family, including the children, by prolonging their overcrowded living conditions and that of her brother and his own family. This has a negative effect on their quality of life.
41. It is clear that the Council has to formulate an appropriate policy response to meeting the needs of travellers within the borough. Whilst the duration of such a process and end date for a completion are currently unknown, a period of

¹⁰ Environmental Sound Survey and Noise Impact Assessment – Independent Acoustic Consultant, October 2023

around 3 to 5 years is typical to allow the Council to find opportunities on preferable alternative sites through a policy response, or appropriate permissions, or for the Appellant to do so if the opportunity arises. I am of the view that a five year period would allow time for the situation to have evolved sufficiently to unearth what realistic alternatives may exist to granting a permission on the appeal site.

42. 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. The five year period is also sufficient to allow for the site to be occupied once any pre-commencement conditions were addressed and for a scheme of landscaping to be sought and implemented. A shorter duration of permission would render a scheme of landscaping disproportionate and of limited benefit to the character and appearance of the area.
43. Therefore, whilst I have found that other considerations do not indicate that a permanent permission should be granted, the unmet need, lack of a deliverable five year supply, absence of alternatives, when combined with the personal circumstances of the appellant and her family, 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 exist, albeit for only a temporary duration.
44. Whilst there would be interference with the Appellant's rights under Article 8 of the European Convention on Human Rights as set out in Schedule 1 of the Human Rights Act as a result of a temporary permission, 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

45. In the interests of certainty, a condition stipulating the relevant approved plans is necessary.
46. The occupancy of the site should be restricted to the current appellant, her grown children and her younger resident dependants, as their personal circumstances have contributed to my decision. Furthermore, it should be for a temporary period of up to 5 years, with a requirement to re-instate the site afterwards.
47. As the status of the family under the PPTS Annex A definition is not in dispute, and the particular needs of this community have factored into my decision to grant a temporary permission, a condition is also necessary limiting occupancy of the site as such.
48. In the interests of the character and appearance of the area, a condition is necessary limiting the site to one pitch and a maximum of two caravans. For similar reasons, it is necessary to ensure that commercial vehicles are limited in number and size and that no storage of materials associated with commercial activities occurs on site. Additionally, a condition is required seeking details of any external lighting to be installed.
49. A condition is also necessary to ensure that landscaping, including retention and implementation of new planting and fencing, are undertaken in accordance

with details to be agreed in writing by the Council to maintain the character and appearance of the site and avoid harm to the environment.

50. A condition is also required in connection with the noise environment to be created, both internally and externally, for the future occupiers of the site and to safeguard the interests of existing local industrial businesses.

Conclusion

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

H Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Green	Green Planning Studio
Mr Patrick Sweeney	Site owner
Mrs Theresa Lane	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jack Parker	of Counsel
Mr Joshua Lemm	Hertsmere Borough Council
Mr James Wells	Hertsmere Borough Council

INTERESTED PARTIES:

Ms Kathryn Naseby	Local resident
Ms Alison Robinson	The Radlett Society and Green Belt Association
Mr Barry Henley	Local resident
Mrs Sylvia Henley	Local resident

DOCUMENTS SUBMITTED DURING THE HEARING:

Document 1	Copy of Reg 18 consultation on the emerging Local Plan
Document 2	Latest Local Development Scheme in connection with emerging Local Plan (2023)
Document 3	Signed witness statement of appellant
Document 4	Photos of the site from local resident

DOCUMENTS SUBMITTED AFTER THE HEARING:

Document 5	Noise conditions correspondence jointly submitted by the main parties
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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 001-P02, dated 27.10.23
 - Proposed Site Plan, Ref 003-P02, dated 25.09.23
 - Proposed dayroom building, Ref 005-P01, dated 10.11.22
- 2) The use hereby permitted shall be carried out only by the following: Mary Theresa Lane and her resident dependants, Mark Lane and Tommy Lane.

The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision.
- 3) At the end of the five year period, or when the land ceases to be occupied by those named in condition No 2 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 in accordance with a scheme that shall have been submitted to and approved in writing by the Local Planning Authority.
- 4) 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, excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 5) There shall be no more than one pitch on the site and no more than two caravans (of which no more than one shall be a static caravan), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the pitch at any time.
- 6) No commercial activities shall take place on the site including the storage of materials.
- 7) No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted shall not exceed 3.5 tonnes in weight.
- 8) Details of any external lighting to be installed shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 9) Within six weeks of the first occupation of the site, testing must take place which shows compliance with BS:8233 for internal noise levels and the 55dB WHO Community Noise Guideline level for outdoor amenity space. Non-compliance with these levels will require additional mitigation measures to be incorporated into the development, which shall first have been submitted to and approved in writing by the Local Planning Authority. Any additional noise mitigation measures required shall thereafter be implemented as approved, within six weeks of approval of

details and shall thereafter be maintained for the duration of the site's occupation.

- 10) Prior to first occupation of the site, a scheme of landscaping and boundary treatments, including both hard and soft landscaping and earthworks, shall be submitted to and approved in writing by the Local Planning Authority with a timetable for implementation.

All hard surfaces included within the landscaping scheme shall be porous.

The soft landscaping scheme shall utilise native species which contribute towards local biodiversity and shall include replacement tree planting. The use of hedgehog fences, integrated bat and bird boxes, bee bricks, log piles and other features is also encouraged.

The landscaping scheme shall be implemented as approved in accordance with the agreed timetable.

--End of Schedule--