
Appeal Decision

Hearing Held on 7 August 2024

Site visit made on 7 August 2024

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 September 2024

Appeal Ref: APP/P1805/W/23/3334752

The Stables, Dale Lane, Lickey End, Bromsgrove B60 1GZ

- 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 Stuart Broadley against the decision of Bromsgrove District Council.
 - The application Ref 22/00469/FUL, dated 30 March 2022, was refused by notice dated 8 June 2023.
 - The development proposed is a mixed use for stationing caravans for residential use and the keeping of horses, with dayrooms and existing stable ancillary to that use.
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Decision

1. The appeal is allowed and planning permission is granted for a mixed use for stationing caravans for residential use and the keeping of horses, with dayrooms and existing stable ancillary to that use at The Stables, Dale Lane, Lickey End, Bromsgrove B60 1GZ in accordance with the terms of the application, Ref 22/00469/FUL, dated 30 March 2022, subject to the conditions set out in Schedule 1 of this decision.

Preliminary Matters

2. The appellant currently occupies the site and at my site visit I observed the newly erected dayroom, 2 touring caravans and other domestic paraphernalia. However, the site is not laid out as it is envisaged to be in the proposed development.
3. Some interested parties seek to question the appellant's Gypsy/Traveller status. The appellant has submitted evidence and supported this matter at the Hearing. The Council is satisfied that the appellant falls within the definition of a Gypsy/Traveller as accepted in the case of *Smith v SSLUHC and Others (2022) EWCA Civ 1391*. On the basis of the evidence submitted, I agree with the Council and the appellant that he qualifies, in this respect.

Application for costs

4. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

5. The main issues in this appeal are:

- Whether the development is inappropriate development in the Green Belt
- Whether any other harm to the Green Belt results from the development
- The effects of the proposal on the character and appearance of the area
- Whether the 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 necessary to justify it.

Reasons

Whether the development is inappropriate development in the Green Belt

6. The appeal site is a roughly rectangular parcel of land located within the Green Belt. The appellants and the Council agree that the development overall amounts to inappropriate development within the Green Belt. The National Planning Policy Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I attach substantial weight to the harm to the Green Belt that arises from its inappropriateness and the proposal would be contrary to Policy BDP4 of the Bromsgrove District Plan, adopted 2017 (BDP) and the advice in the National Planning Policy Framework.
7. The appellant indicates that the keeping of horses at the site is not inappropriate development but accepts that the mixed use as proposed would be inappropriate development.

Whether any other harm to the Green Belt results from the development

8. Prior to the occupation of the site by the appellant, the evidence submitted by the Council indicates that the site was open and free from buildings and structures, apart from the stable building. The use of the site would involve the stationing of a number of caravans, dayrooms, vehicles, as well as other domestic paraphernalia. A significant area of hard-surfacing is proposed and this would be accommodated by a considerable excavation of the site by reducing the height of much of the northern area. Compared to its previous state, the proposed use would have a significantly deleterious effect on the openness of the site. In addition, the development would conflict with one of the main purposes of the Green Belt of assisting in safeguarding the countryside from encroachment. This gives rise to additional conflict with Policy BDP4 and the Framework.

The effects of the proposal on the character and appearance of the area

9. Dale Lane is narrow, unlit and has no pavements. It is mostly lined with trees and other vegetation. Along its length some buildings are visible, including houses, horticultural structures and stables. However, the overwhelmingly dominant character here is rural, where open, semi-natural land predominates and those structures that are present intrude within that character. Whilst I readily acknowledge the presence of these buildings and structures, they are subservient features within the area.
10. The proposal would bring about a number of built features to the site as well as touring caravans. These would extend for some distance into the site, from the Dale Lane frontage. I accept that the visibility of these features would be limited by existing planting along the frontage of the site and it is unlikely that

the development would be seen from the Public Right of Way to the south. This visibility of the proposal would also be further reduced by additional planting, as suggested by the appellant. In relation to the visual effect of the proposal, I consider that there would be only a modest negative effect due to the screening effects of the existing and proposed planting. In relation to the character, there are buildings, structures and a few caravans in the area and so these features in themselves may not be seen as out of character. However, the proposal would involve these being positioned far into the site and on a significant area of hard-surfacing, which I judge to be inconsistent with the overall character of the area that I observed. I conclude that this would have a moderately harmful effect on the character, contrary to Policy BDP19 of the BDP.

Other Considerations

11. Policy BDP 11 states that if additional sites for Gypsy and Travellers are required, land will be identified through a local plan review. The supporting text within the BDP indicates that a potential need for permanent pitches after 2019/20. A Gypsy and Traveller and Travelling Showperson Accommodation Assessment of 2021 (GTAA) provides the Council's latest analysis and conclusions on the need and supply of pitches. This also indicates that there is a need for additional pitches over and above current supply. It states that for the period from 2021/22 to 2025/26 there is a shortfall of 17 pitches in relation to identified cultural needs.
12. In relation to the supply of additional pitches, the Council refers to turnover of pitches on a large site at Houndsfield Lane, which is managed by a housing association. Although there was some debate about the use of turnover, this would only generate 6 pitches over a 5 year period, according to the Council's figures. In addition, a recently allowed appeal at Batemans Lane (Ref: APP/P1805/W/23/ 3325331) of November 2023 has resulted in permission for 2 permanent pitches.
13. The evidence presented and the discussions at the Hearing indicate to me that there is a current unmet need for more Gypsy and Traveller pitches. The existing supply of pitches/sites will not be sufficient to meet this need. The appeal proposal would help contribute to supply and, in some manner, contribute to reducing the shortfall in supply.
14. The Council indicated that its review of the BDP has been delayed and a timetable for the review process was uncertain, although the first round of consultation is due to be undertaken shortly. Therefore, no land has been identified in the development plan to address the recognised need for more Gypsy and Traveller sites. The Inspector for the Batemans Lane appeal noted a similar situation and also referred back to another appeal at Ash Lane (Ref: APP/P1805/W/18/3205163) wherein a similar situation existed in 2019. Therefore, there has been a persistent failure of the Council to put into place policies or other measures to meet a long-standing unmet need for new sites, a point generally accepted by the Council at the Hearing.
15. The Council estimated that around 90% of the District is Green Belt land. Therefore, it is highly likely that any new Gypsy and Traveller sites would be located in the Green Belt. Within this context and long-standing set of circumstances, it appears to me that the unmet need for new sites will continue for some time unless new pitches are allowed in the Green Belt.

The Green Belt Balance

16. The NPPF and the PPTS state that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
17. BDP Policy BDP 4 is not wholly consistent with the NPPF in so much as it does not mention some changes of use as being not inappropriate development and it does not include for the possibility of granting planning permission where very special circumstances exist. However, the Council does mention very special circumstances in its reason for refusal and other submissions.
18. The NPPF states that substantial weight should be given to any harm to the Green Belt. The appeal scheme would be harmful by reason of inappropriateness, loss of openness and failing to safeguard the countryside from encroachment. Furthermore, there would be some negative impact on the character and appearance of the area.
19. The proposal would make a positive contribution by aiding in the reduction of unmet need for Gypsy and Traveller sites. In my judgement, this is a significant benefit. The PPTS states that unmet need is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, in this instance, there is a long-standing shortfall in the Council's ability to provide for such sites, which has been recognised in previous appeals. Furthermore, the Council's policy context does not provide for the provision of such sites and it would appear that there is little prospect of it doing so within the near future. Additionally, it has been accepted by the Council that the provision of sites would be very likely to involve Green Belt Land. I consider that, when taken together, these factors add compelling support in favour of the appeal.
20. I conclude the total harm caused by the proposal would be clearly outweighed by other factors referred to above. As such, very special circumstances exist to justify allowing the proposal. In these respects, the development would accord with the Framework's and PPTS's policies on Green Belt. Also, there is sufficient justification to allow the appeal despite any conflict with BDP policy BDP4.

Conditions

21. The appellant has included information on the personal circumstances of individuals who intend to carry on occupying the site. I have considered that the use of the site as envisaged by the proposal is acceptable in planning terms and does not therefore, rely on the individual circumstances of its occupiers, in this respect. Therefore, I shall not include a personal restriction. The circumstances for the provision of sites within the District demonstrates that there is likely to be an inadequate provision of such sites by the Council for some time. Therefore, I find no justification or need to make the permission temporary. The use of the site has already commenced and so a commencement condition is not necessary.
22. I have taken account of the schedule of conditions submitted and discussed at the Hearing, along with the relevant advice in the Planning Practice Guidance

and NPPF. I shall include a condition which identifies the approved plans for the sake of clarity and certainty. A condition requiring the approval and implementation of measures for drainage, biodiversity enhancements and landscaping is necessary so that the proposal has an appropriate impact in relation to those matters. So that the proposal has an appropriate appearance, details of the external materials and finishes of the dayrooms and refuse store should be submitted to and approved by the Council.

23. It is necessary to approve any external lighting at the site so that the proposal has an acceptable appearance. So that there is suitable provision for vehicular access and parking, the provision of those facilities should be ensured and retained, in an appropriate form. So that the site is used in a manner appropriate to the area and consistent with the proposal, the number of pitches and caravans shall be limited, as proposed. Given the circumstances which have led to the approval of the proposal, the site shall be limited in its occupancy to Gypsies and Travellers only.

Conclusion

24. For the reasons set out above, the appeal is allowed.

T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

M Green
Mr Broadley
Mrs Broadly
Mrs Cooper

FOR THE LOCAL PLANNING AUTHORITY:

C Pearce
M Bullock
S Smith

INTERESTED PERSONS:

Mr A Hawkesworth

DOCUMENTS

1. Witness Statement of Mr Broadley
2. Witness Statement of Mrs S Cooper

Schedule 1, Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 21_1178_001; 21_1178_003-REV D; 21_1178_004; 21_1178_005; SD(52)002.
- 2) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet anyone of the requirements set out in (i) to iv) below:
 - (i) Within 3 months of the dates of this decision, a scheme for (a) surface water drainage and foul water drainage of the site; (b) biodiversity enhancement and (c) hard and soft landscaping of the site, (hereafter refer 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.
 - (ii) If, within 11 months of the date of this decision, the local planning authority refused to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - (iv) The approved site development 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 and retained in accordance with the approved details. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) All planting comprised in the approved landscaping details, approved under condition (2) shall be carried out within the agreed timetable. For a period of five years after the completion of the approved landscaping scheme, the trees, hedges and shrubs shall be protected and maintained in a healthy weed free condition. Any trees, hedges or shrubs that cease to grow or are felled, removed, uprooted, destroyed, or die, or become in the opinion of the Local Planning Authority seriously damaged, diseased, or defective, shall be replaced by trees, hedges or shrubs of similar size and species, or other appropriate trees, hedges or shrubs as may be approved in writing by the Local Planning Authority. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.
- 4) No works on the construction of the dayroom buildings and refuse store hereby permitted shall commence until full details of the colour and finish of the materials to be used externally on the walls and roofs of the dayrooms have been submitted to and approved in writing by the local

planning authority. The dayrooms and refuse store shall be constructed in accordance with the approved details, and hereafter maintained in accordance with the approved details.

- 5) No external lighting associated with the change of use hereby permitted shall be installed on the site unless details have first been submitted to and approved in writing by the local planning authority.
- 6) The hard-surfaced area indicated as access, turning area and parking on the approved plans shall be retained for those purposes and only used for the parking and manoeuvring of vehicles whilst the development hereby allowed is occupied.
- 7) The first 5 metres of the proposed access, as measured from the edge of the adjoining highway, shall be properly consolidated and surfaced (not loose stone or gravel). Once constructed the access shall thereafter be maintained in that condition in perpetuity.
- 8) There should be no more than 2 pitches on the site and no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each of the pitches at any one time, of which no more than 1 shall be a static caravan or mobile home.
- 9) The development hereby approved 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.