



Appeal Decision

Site visit made on 9 July 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2024

Appeal Ref: APP/J3720/W/23/3326532

Land adjoining Greenways, Ardens Grafton Road, Temple Grafton, Warwickshire B49 6NX

- 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 S Loveridge against the decision of Stratford-on-Avon District Council.
 - The application Ref is 22/03373/FUL, dated 15 November 2022, was refused by notice dated 14 June 2023.
 - The development proposed is use of land for the stationing of caravans for residential purposes for 1 no. Gypsy pitch, with two caravans (one mobile home and one touring), together with the formation of hardstanding and utility / day room ancillary to that use and creation of a new highway access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the area including the Arden Special Landscape Area (SLA).

Reasons

3. The appeal site comprises a broadly rectangular parcel of land that lies in a gap between the villages of Ardens Grafton and Temple Grafton. The openness of the site and its function as part of a largely undeveloped gap between the two settlements positively contributes to the character of the area.
4. Despite the presence of an existing Gypsy and Traveller site neighbouring the western edge of Temple Grafton and its limited size the gap is a notable feature within the local landscape. Consistent with the Inspector in consideration of Appeal Ref: APP/J3720/W/20/3263984, cumulatively it would not take many developments to reduce the gap and in turn weaken its significance.
5. The appeal site lies within the SLA whereby the landscape is defined by a settlement pattern of small nucleated villages surrounded by a verdant high quality landscape. This reinforces the value of the gap between the two settlements of Ardens Grafton and Temple Grafton.
6. The proposed development would introduce a mobile home, touring caravan and associated paraphernalia into the landscape introducing domestic activity and items into an otherwise undeveloped field. The development proposed divorced from the western edge of Temple Grafton would disperse development

- across the landscape appearing as a discordant feature harming the character and appearance of the area and eroding the gap between the two settlements.
7. A tall hedge encloses the site on three sides including along the road. Strong hedgerows are a key quality of the SLA and the proposed access would open up the site through the removal of a section of hedgerow along the road. The removal of a section of hedgerow although limited and the introduction of a footway crossing would be a further indication of the reduction of the gap between Ardens Grafton and Temple Grafton.
 8. When seen from Ardens Grafton Road and the Public Right of Way that extends to the north of the site, the proposed development would be most evident in localised views. When travelling along the road the mobile home, day room and touring caravan would be visible appearing as unduly discordant and prominent features, despite the presence of vegetation.
 9. A further development within this gap would reduce the size of it and in turn weaken its significance as an undeveloped gap. This encroachment into open countryside would undermine the separation between Ardens Grafton and Temple Grafton leading to a degree of visual and physical coalescence of the settlements.
 10. I conclude that the proposed development would unacceptably erode the undeveloped gap between the two settlements and would adversely affect the character and appearance of the area and the SLA contrary to Policies CS.5 and CS.12 of the Stratford-on-Avon District Core Strategy (2016) (CS) which, amongst other things, require proposals to protect landscape character and avoid detrimental effects on features which make a significant contribution to the character, history and setting of a settlement or area and seek to resist development proposals that would have a harmful effect on the distinctive character and appearance of the SLA.

Other Matters

11. Third parties have drawn my attention to existing Gypsy and Traveller pitches in the area. Whilst a reasonable material consideration I am satisfied that a further pitch and the number of pitches cumulatively would not have a dominating effect on settled communities in the area.
12. I have also had regard to the other issues raised by local residents, the Parish Council and a local Councillor. However, I have seen no substantiated evidence to indicate that the appeal proposal would likely lead to any increase in any alleged anti-social behaviour.
13. The Planning policy for traveller sites (PPTS) does not refer to accessibility to services and facilities by foot and public transport as one of its aims. The more general aim in the PPTS is the provision of suitable accommodation from which Gypsies and Travellers can access education, welfare and employment opportunities. It is also recognised in the National Planning Policy Framework (the Framework) that transport solutions will vary between urban and rural areas. As such, there will be a tension and a balance to be struck between the desirability of supporting sustainable rural development and maximising sustainable transport opportunities.
14. Taking into consideration the relatively short distance between the site and nearby services and facilities and the aims of the PPTS I do not find that the

accessibility of facilities and services in this case render the site unsuitable as a Gypsy and Traveller site. For these reasons there is nothing to suggest that the intended occupiers would feel isolated from the local community.

15. There is no substantive evidence that the proposal would adversely affect highway safety or would increase the risk of flooding locally.

Other Considerations

Supply of gypsy and traveller pitches

16. The PPTS sets out that local planning authorities should use a robust evidence base to establish the accommodation needs to inform the preparation of local plans and make planning decisions. At paragraph 10, it states that local planning authorities should identify and update annually 5 years worth of deliverable sites for Gypsies and Travellers.
17. The Council accept that they cannot demonstrate a 5-year supply of pitches for gypsies and travellers and therefore there is an unmet need. The Officer's Report indicates that the shortfall stands at around 60 pitches when considered against the ethnic definition outlined in the latest Gypsy and Traveller Accommodation Assessment. Whilst the Council advise that further permissions have been granted the shortfall is still substantial, in my view, at around 50 pitches.
18. As such, there is a substantial unmet need for Gypsy and Traveller pitches in the area and whilst the Council is exploring options to identify new permanent sites, I attach significant weight to this matter.

Personal circumstances

19. Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, concerns a right to respect private and family life. Article 8 affords the right to respect for private and family life and home, including the traditions and culture associated with the gypsy and traveller way of life. The Public Sector Equality Duty was introduced under the Equality Act 2010 which requires at section 149 that a public authority or person exercising a public function must, among other requirements, foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
20. The parties agree that the appellant falls within the definition of Gypsy and Travellers in the PPTS, and I have no reason to find differently. Mr Loveridge has three children and shares parental responsibility with their mother who it appears lives elsewhere. I have been advised that they attend schools within the local area and that the appellant and one child also have medical needs.
21. The appellant advises that he and his family have been doubling up on other sites locally or spending considerable time travelling as part of his nomadic habit of life. That said, Mr Loveridge advises that he has moved onto the site, albeit it has not been fully developed so as to avoid unauthorised development and any potential enforcement action. However, based on the evidence before me including my observations during the site visit I cannot be certain that this is the case. In any event this is not a determinative matter in this appeal.

22. Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. From the outset no consideration should be regarded as more important or given greater weight in my assessment. That said, the best interests will not always outweigh the other considerations including those that negatively impact on the environment. I have nonetheless kept the best interests of the children at the forefront of my mind in reaching my decision.
23. The site would provide a settled and stable base for the appellant and his children to attend medical services. It would also allow his children to enjoy a consistent schooling and social life and benefit from remaining close to their mother. However, there is nothing before me to suggest that the educational requirements and the medical needs are so specific that they can only be accessed from this location nor is there anything to indicate the nature and scale of disruption that would result from not living on the site.
24. As the appellant and his former partner share parental responsibility of their children the children have a further base and point of support. As such, it has not been shown that the appellant's children would be rendered homeless or would have to adopt a roadside existence even if no alternative private or public pitches are available to the appellant.
25. Having regard to these matters alongside the particular circumstances of the case it has not been shown that the scheme before me is necessary to serve their medical, social or educational needs.

Planning Balance

26. I have found that the proposed development would erode the gap between Ardens Grafton and Temple Grafton and cause unacceptable harm to the character and appearance of the SLA, in conflict with CS Policies CS.5 and CS.12. This factor attracts significant weight in the overall balance.
27. In favour of the appeal, I have found that the Council has an immediate shortage and cannot demonstrate a five-year supply of Traveller sites; there are no suitable and available alternative public or private sites. I attach significant weight to these considerations. I also attach moderate weight to the personal circumstances of the appellant and his children.
28. On balance, I am satisfied that the harm which would be caused by the development outweighs the other considerations to the extent that permanent planning permission should not be granted. However, it is also necessary to consider whether a further time-limited permission could be granted.
29. Granting a time-limited permission would also give the Council a period in which to increase its supply of land for sites and mean that the harm caused by the use to the character and appearance of the SLA comes to an end in the foreseeable future.
30. I have given consideration to a planning permission personal to the appellant and his children. However, bearing in mind the harm that arises from the development to the SLA and mindful too of the limited information about personal circumstances I conclude that a temporary planning permission for any length of time would not be justified.

31. In coming to my decision, I have paid regard to my Public Sector Equality Duty under s149 of the Equality Act 2010. I have had regard to the rights of the appellant under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. It is a qualified right, and interference may be justified where it is lawful and in the public interest. The concept of proportionality is crucial. As such, whilst there may be some interference of the appellant's rights under Article 8, it would be in accordance with the law and in pursuance of a well-established and legitimate aim: the protection of the environment.

Conclusion

32. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR