



Appeal Decision

Site visit made on 20 November 2024

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2024

Appeal Ref: APP/J0540/W/24/3347455

Greenacres, Northey Road, Peterborough, PE6 7YX

- 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 N Hall against the decision of Peterborough City Council.
 - The application Ref is 24/00130/FUL.
 - The development proposed is Removal of existing mobile home and erection of replacement bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form the description has been changed to the one that the Council used to deal with the proposal. This was agreed with the appellant during the Council's consideration of the application and is demolition/removal of existing mobile home and erection of replacement dwelling, to be occupied by gypsy / traveller family in connection with continued use of site for one gypsy traveller family.

Main Issue

3. The main issue is whether or not the appeal site is a suitable location for the proposed development with reference to the spatial strategy in the development plan.

Reasons

4. Policy LP2 of the Peterborough Local Plan 2016-2035 (LP) sets out the Council's spatial strategy and settlement hierarchy. It confirms that the appeal site, which is situated on land outside the village envelope and the Peterborough Urban Area boundary, is defined as countryside. The policy restricts development in the countryside to that which is essential in that location, or meets the exception tests set out in policy LP8, LP11 or minerals or waste development.
5. Policy LP8 sets out how a number of different housing needs will be met but the appellant accepts that this policy is not relevant to the consideration of this appeal. Policy LP11 of the LP allows for the replacement of an existing dwelling in the countryside but excludes the replacement of a temporary or mobile structure.

6. The planning permission that exists on the site is for the use of the land for the stationing of a caravan with a condition which restricts the occupation of the site to those who would meet the definition of a Gypsy or Traveller as set out in Annex A of the Planning Policy for Traveller Sites (PPTS).
7. Despite the appellant's case that the replacement of the mobile home should be considered as a replacement dwelling, the planning permission granted is for the use of the land, rather than the existing structure on the site, and in any event temporary or mobile structures, such as caravans, are excluded from Policy LP11 of the LP.
8. Therefore, the proposed development does not meet any of the exceptions set out in policy LP2 and therefore in accordance with policy LP2 all other residential development should be refused.
9. In conclusion, the introduction of the proposed development into the appeal site, would fail to adhere to the relevant policies relating to housing in rural areas. It would conflict with policies LP2 and LP11 of the LP for the reasons set out above.

Other Matters

Loss of Gypsy and Traveller Pitch

10. Policy LP10 sets out that any planning permission granted for the use of land as a Gypsy and Traveller Site will restrict the construction of permanent built structures to small amenity blocks associated with each pitch. The site has been permitted to meet a general need for pitches in the locality, and has not been restricted solely to the appellant.
11. I have not been provided with any evidence to suggest that the appellant's wish to move to bricks and mortar housing could not be met by a site within the village envelope or urban area. Nor is there any evidence to suggest that Gypsy and Travellers generally face any greater difficulty in acquiring bricks and mortar housing than members of the settled population.
12. If the site were to be developed with bricks and mortar housing, even if a condition were to be applied to restrict its occupancy to those meeting the PPTS definition, it may not be culturally appropriate for another gypsy and traveller who has a requirement for a pitch.
13. As such, the proposal would result in the loss of a Gypsy and Traveller pitch and as I have not been provided with any evidence to suggest that the Council has an over provision of pitches or that there wouldn't be a need locally for pitches, this is a factor which weighs against the scheme.

Public Sector Equality Duty

14. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which set out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appellant shares a protected characteristic for the purposes of the PSED and I consider below matters raised by the appellant in this context.

15. The site currently has permission for one gypsy family comprising 1 x residential caravan; 2 x ancillary caravans, 2 x portacabins for use as a utility and storage and 1 x storage container¹ and has an occupancy condition which states the site shall not be occupied by any persons other than gypsies and travellers as defined in the Annex 1:Glossary to the Planning Policy for Traveller Sites.
16. There is nothing before me to indicate that the appellant is unable to meet the terms of the occupancy condition or that there are any other reasons which would prevent their continued occupation of the site. As such the refusal of this appeal would not lead to any implications including equality of access to accommodation. As set out above should the appellants wish to reside in bricks and mortar then other opportunities would be available to them in the same way that they are for the settled community.
17. Furthermore, if the appeal were to be dismissed the appellant would not be left without alternative accommodation nor would an approval serve the best interest of any particular child.

Scheduled Ancient Monument

18. The site is adjacent to the Flag Fen Scheduled Ancient Monument (SAM), and Historic England have confirmed that the proposal would not have any direct impact on the scheduled monument and any buried archaeological remains.
19. The site is enclosed by a well established and maintained conifer hedge but there are glimpses of the appeal site from the access road leading to the Flag Fen Visitor Centre. However, from this position the site is seen in the context of other buildings and caravans nearby. Therefore, having regard to the existing development on the site, the proposed dwelling would not result in any visual harm and would not adversely affect the setting of the SAM.

Other appeal decisions

20. The appellant has referred me to an appeal decision in Stockton on Tees Borough² where the proposal was for the replacement of a caravan with a dwelling. However, the caravan in that case was not sited on a gypsy and traveller pitch and in that case the Inspector concluded that the replacement would accord with the Council's replacement dwelling policy. Therefore the considerations in this appeal are not directly comparable.

Conclusion

21. For the reasons given above the appeal should be dismissed.

G Pannell

INSPECTOR

¹ APP/J0540/A/13/2193949

² APP/H0378/W/19/3242788