



Appeal Decision

Site visit made on 22 October 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2025

Appeal Ref: APP/E3715/W/24/3339499

Land south west of Foxons Corner, Fosse Way, Monks Kirby, Warwickshire, CV23 0RT

- 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 Teddy Jones against the decision of Rugby Borough Council.
 - The application Ref is R23/0850.
 - The development is the change of use of land to use as a residential caravan site one no. gypsy family, static with one no. caravan together with laying of hard standing and erection of one no. stable/utility building.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to use as a residential caravan site one no. gypsy family, static with one no. caravan together with laying of hard standing and erection of one no. stable/utility building at land south west of Foxons Corner, Fosse Way, Monks Kirby, Warwickshire, CV23 0RT subject to the conditions in the attached schedule.

Preliminary Matters

2. During my site visit it was apparent that the development has been complete, with the hardstanding, siting of a caravan, day room /stable and boundary fencing evident at the site. This was in accordance with the plans in front of me and I am therefore treating the appeal as retrospective.
3. Both the National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS) were revised in December 2024. The Council and appellant provided further comments on these documents, which I have considered in reaching my findings.

Main Issues

4. The main issues are;
 - Whether the development would be inappropriate development in the Green Belt;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area; and

- Would the harm by reason of inappropriateness and any other harm be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

5. Inappropriate development in the Green Belt is, by definition, harmful to the Green Belt. Policy GP2 of the Rugby Borough Council Local Plan 2011 – 2031 (2019) (LP) states that new development in the Green Belt will be resisted; only where national policy on Green Belt allows will development be permitted.
6. Paragraphs 154 and 155 of the Framework define what types of development would not be inappropriate. The proposal would not meet any of the exceptions listed in Paragraph 154. Paragraph 155 goes on to state that development in the Green Belt should not be regarded as inappropriate where; a) development would utilise grey belt land and would not fundamentally undermine the purposes of the remaining Green Belt; b) there is a demonstrable unmet need for the type of development proposed; and c) the development would be in a sustainable location
7. 'Grey Belt' is defined in the glossary to the Framework as land within the Green Belt which is previously developed and/or does not strongly contribute to purposes a), b) or d) of the Green Belt. Grey Belt excludes land where the application of policies relating to the areas or assets in Footnote 7 of the Framework (other than Green Belt) provide a strong reason for refusing or restricting development.
8. The Council agree that the appeal site is Grey Belt, as it does not strongly contribute to purposes a); b); or d) of the Green Belt. Based on what I saw during my site visit and the evidence before me, I agree with the Council's view on this matter.
9. Whilst the Council consider the appeal site to be Grey Belt, it raises concerns that the development would fundamentally undermine the purposes of the remaining Green Belt and would therefore be contrary to criteria a) of Paragraph 155 of the Framework. The appeal site is a narrow strip of land that is bound by agricultural land with mature boundaries to two sides. It is bound by Bow Lane and Fosse Way to the other sides. The surrounding area largely comprises open agricultural land with agricultural dwellings and buildings dispersed throughout. The appeal site therefore has the characteristics of being located in the open countryside. As such, the appeal scheme, including the hardstanding, close boarded fencing, and day room, would undermine the aim of safeguarding the countryside from encroachment, purpose c) of the Green Belt.
10. The Council confirms that the development would comply with criteria b) of Paragraph 155 of the Framework. This is due to the Council having an unmet need for Gypsy and Traveller pitches, with Council's Gypsy and Traveller Accommodation Assessment (2022) (GTAA) identifying a need for 79 pitches between 2022 and 2037.
11. The appeal site is located in an area of open countryside. It is located within 1km of Monks Kirby which has a primary school, church, and public house. The access to Monks Kirby is via Millers Lane, a narrow lane with no pavements or street lighting. Other nearby villages have minor services with the appellant primary

school of choice being located in Wolvey, approximately 6km from the appeal site where there is also a small shop. For larger services such as supermarkets and hospitals travel to either Rugby or Coventry would be required. Further afield villages and towns are not within walking distance and would necessitate travel along unlit and fast roads with no pavements. The unlit and narrow nature of nearby roads would also restrict cycling.

12. The appeal site is not well placed to access everyday services and facilities by walking or cycling. I have not been provided with any details of public transport options, but no bus stops were noted during my site visit. As such, occupiers would be reliant on private vehicles to access everyday services and facilities. The appeal site is not therefore in a sustainable location for the purposes of Paragraph 155 of the Framework.
13. Taking the above into account, the development would not accord with LP Policy GP2 or Paragraph 155 of the Framework and would therefore be inappropriate development in the Green Belt

Openness

14. The appeal site had been used for a willow harvesting and crafting enterprise. The development includes the siting of a caravan, day room, hardstanding, and close boarded timber fencing along the boundary. Together these would have a spatial visual impact on openness.
15. During my site visit I saw that, whilst a timber fence has been erected, this is behind a mature area of landscaping, which includes hedgerow and tree planting. When travelling along Fosse Way and towards Fosse Way on Millers Lane the appeal site is somewhat screened by the landscaping with glimpses of the upper parts of the caravan visible. As such, the impact on visual openness would be limited and only evident in the immediate locality.
16. Whilst the caravan and day room would be modest in scale and single storey, in combination with the fencing and hardstanding, it would lead to a spatial loss of openness and encroachment in to the open countryside. This would have a harmful impact on the openness of the Green Belt.
17. In light of the above the development would conflict with the fundamental aim of the Green Belt, to prevent urban sprawl by keeping land permanently open and one of the purposes to assist in safeguarding the countryside from encroachment.

Character and appearance

18. LP Policy DS2 sets out criteria against which proposals for gypsy, travellers and travelling showpeople will be judged. These include that the development complies with LP Policy SDC1 which addresses the consideration of design and impact on the surrounding area.
19. The appeal site comprises a narrow rectangular piece of land that fronts on to Fosse Way. It is bound by agricultural land and roads. Along the rear of the site is an area of mature landscaping which somewhat blocks views over the agricultural land to the rear. The immediate surrounding area has an agricultural character with agricultural fields, hedgerows and dispersed dwellings and buildings. The appeal site had previously been used for willow harvesting and a craft business and, according to the Council, had the appearance of an agricultural paddock.

20. The appeal scheme would result in the siting of a caravan, construction of a day room and associated hardstanding and fencing. The hardstanding would be used for the stationing of a touring caravan and further domestic paraphernalia could be located on the site. Residential caravan sites are not currently part of the character of the area and, whilst the location of caravan sites in the countryside is not prohibited by planning policy, they are not typical features of the surrounding area. The combined effect of this would have an urbanising effect on the rural characteristics of the area.
21. Whilst this urbanising effect would be somewhat softened by the existing landscaping, the top of the caravan would be visible, and in winter the development would be more noticeable. It would draw the eye when travelling along Fosse Way and would be incongruous in views from the junction with Millers Lane, opposite the appeal site.
22. I conclude that the development would be harmful to the character and appearance of the surrounding area. The development is therefore contrary to LP Policy SDC1 which seeks, amongst other things, that the design of new development responds to the character of the area.

Other considerations

23. I have found Green Belt harm through the development being inappropriate and the scheme's effect on openness and the purposes of including land in the Green Belt, as well as harm to the character and appearance of the area.
24. The Council's approach to Green Belt development in LP Policy GP2 aligns with the Framework. The Framework states that substantial weight should be given to any harm to the Green Belt. It adds that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
25. The Council confirms that there is a need for permanent pitches. The Council's GTAA completed in 2022 identified that 79 pitches were required to be delivered between 2022 and 2037, with 48 pitches required by 2027. In their submission the Council confirm that a call for sites was undertaken in Autumn 2022 where no submissions were made. This position has not changed since the previous appeal¹ at the site was dismissed in 2023. This is a considerable unmet need which I give significant weight.
26. The appellant has stated that there are no available, affordable, or acceptable sites available to them. The Council do not dispute this, and its submission advises that it is not aware of any alternative sites being available. I give the lack of alternative accommodation considerable weight.
27. Turning to personal circumstances, the occupiers of the site would comprise Teddy and Haley Jones, their adult son and two children. The adult male members of the family travel to undertake roofing work as well as attending horse fairs in England and Ireland. Whilst the Council's officer report states that the other children are likely to leave school soon their ages would suggest that they would likely remain in school for a number of years.

¹ APP/E3715/W/21/3278838

28. The education of the children would clearly be disrupted if the family had to rely on a roadside existence, and given the lack of alternative accommodation, to the detriment of the children's education. I consider therefore that it is in the best interests of the children to continue that education and to benefit from a stable and secure base. I give this matter substantial weight.
29. Whilst the appellant and their family are registered locally with a doctor, I have not been provided with details of any medical conditions that would require regular visits and appointments at a GP surgery or hospital. Nevertheless, access to doctors would be easier from a settled location.
30. Paragraph 28 of PPTS makes clear that if a Local Planning Authority cannot demonstrate an up to date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. There are exceptions to this and they include development on land designated as Green Belt.
31. Nonetheless, it remains for the decision-maker to attribute such weight as is considered appropriate in the given circumstances. In this particular case, the absence of a 5-year supply does warrant significant weight in light of the appreciable deficit in supply which has remained unchanged for some years and with no sign of the shortfall being remedied within the foreseeable future.

Green Belt Balance

32. The development comprises inappropriate development in the Green Belt which is harmful by definition. Substantial weight must be given to any harm to the Green Belt and this is a major factor against the developments. There is also harm to openness and to the purpose of the Green Belt in assisting in safeguarding the countryside from encroachment.
33. Policy E of PPTS makes it clear 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, the unmet need for traveller sites is only one of several considerations which support the appeals.
34. The Council is unable to demonstrate an adequate supply of pitches. There has been a failure of policy over a number of years to deliver the needs of Gypsies and Travellers, which means that there are no alternative or available sites for the appellant and their family to move to. It is uncertain when any would be available in the future. It is also likely that, given the extent of Green Belt within the area, if any sites do come forward, they too would be in the Green Belt.
35. The Council must accept that land within the Green Belt will have to be de-allocated if it is to meet the identified need for gypsy and traveller sites. No matter where that might be there will inevitably be some harm. Indeed, this is recognised by LP Policy GP2 which does not preclude development from the Green Belt altogether but states that it will be resisted. Whilst there would be a harmful visual impact, given the relatively small-scale nature of the development, its containment and existing landscaping, the impact would be localised. All of these factors carry moderate weight.

36. I have had regard to the PPTS that states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and any other harm so as to establish very special circumstances. However, in this instance, the matters I have identified above together, including the best interests of the child, carry very great weight such that they clearly outweigh the harm to the Green Belt. Having regard to the case as a whole, I conclude that very special circumstances exist which justify the development. As such, there would be no conflict with the requirements of the Framework.

Other Matters

37. Interested parties have raised concerns regarding biodiversity, archaeology, and highway safety. Whilst the development would involve the loss of grassland, this would be a minor loss. Grassland would remain to the north and south of the site as would the existing boundary of the site. Due to the minor nature of the development, I do not consider that the development would have a harmful impact on biodiversity.
38. With regards to archaeology a Historic Environment Officer reviewed the application. They concluded that the development would unlikely have an archaeological impact. No further comments or conditions were recommended. Due to the small nature of the appeal site, along with the minor scale of the development, I agree with these comments.
39. Fosse Way is a straight road which, as I saw during my site visit, can lead to fast vehicular speeds. However, due to the straight nature of the road there is good visibility to see vehicles approaching along Fosse Way and moving towards the junction at Millers Lane. Subject to conditions requiring access improvement and visibility splays to be maintained the development would not have a harmful impact on highway safety.

Conditions

40. I have considered the advice contained within the Planning Practice Guidance (PPG) and the conditions recommended by the Council. I have made amendment where necessary in the interest of precision.
41. A condition regarding commencement is not necessary as the development has already commenced. A plans condition is necessary in the interest of certainty. As noted above due to the chronic under supply of pitches there is no reason to limit the permission to a specific family. A condition is however required to secure occupation by those meeting the PPTS definition.
42. Conditions requiring the retention of facing materials on the day room/stable and restricting its use are necessary in order to safeguard the character and appearance of the area and the living conditions of nearby residents.
43. Conditions requiring the submission of manure management details, restriction of manure burning, external lighting, and the restriction of commercial waste storage are necessary in order to safeguard the living condition of nearby residents. As the development has been undertaken a condition regarding land contamination is not necessary.

- 44. Visibility splay, access alterations, gates and drainage conditions are necessary in order to ensure a safe access is provided and maintained.
- 45. A condition requiring the removal of structures from the site is not necessary as additional structures were not evident during my site visit. I have included a condition regarding the number of caravans in the interest of the character and appearance of the area.

Conclusion

- 46. For the reasons given above the appeal should be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with Site & Location Plans Buildings Plans and Elevations Drawing No. 1317-02 Rev A.
- 2) The development hereby permitted shall not be occupied by anyone other than persons meeting the definition of gypsies and travellers set out in Annex 1: Glossary to the Planning Policy for Traveller Sites of 12th December 2024 or any subsequent amendment.
- 3) No more than one pitch for gypsy/traveller accommodation shall be created on the land edged re on Site & Location Plans Buildings Plans and Elevations Drawing No. 1317-02 Rev A, with the pitch containing no more than one mobile home and one touring caravan at any one time as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.
- 4) The facing materials used on the stable building hereby permitted shall remain as existing; horizontal timber boarding for the elevations, timber doors, and roofing felt for the roof.
- 5) The stable/dayroom building hereby permitted shall only be used for the stabling of horses belonging to the occupiers of the site and for incidental purposes by those living on site. The stable/dayroom shall be for the private purposes of those outlined in Condition 2 and shall not be used for any business purposes or activities unrelated to the residential occupation of the site.
- 6) Prior to the keeping or stabling of horses a scheme for the containment and storage of manure, including a fly management plan, shall be submitted to, and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved management plan.
- 7) No fires or disposal of manure by burning are permitted.
- 8) No storage of commercial building materials or commercial/business waste are permitted.
- 9) Prior to the installation of external lighting details of the type, design and location of any lighting shall be submitted to and approved in writing by the Local Planning Authority. Any lighting shall be installed in accordance with the approved details.
- 10) 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 any one of the requirements set out in i) to iv) below
 - i) Within three months of the date of this decision a scheme, including a proposed timetable for implementation, with details of:
 1. Visibility splays to be provided for the vehicular access to the site with an 'x' distance of 2.4 metres and 'y' distances of 215 metres to the near edge of the public highway carriageway;

2. The widening of the existing vehicular access to the site to provide an access of not less than 5 metres in width for a distance of 7.5 metres, as measured from the near edge of the public highway carriageway; and
 3. The access being surfaced with a bound macadam material for a distance of 7.5 metres measured from the near edge of the public highway carriageway.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or details 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 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 scheme specified in this condition, that scheme shall thereafter be retained.

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.

- 11) Gates erected at the entrance to the site for vehicles shall not be hung so as to open to within 7.5 metres of the near edge of the public highway carriageway.
- 12) The access to the site shall be constructed/reconstructed in a manner that retains the capacity of any drain or ditch within the limits of the public highway.