



Appeal Decision

Hearing held on 4 March 2025

Site visit made on 5 March 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 27 March 2025

Appeal Ref: APP/P0240/W/23/3336017

Plot 6 The Evergreens, Dunstable Road, Tilsworth, Leighton Buzzard, LU7 9PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Patrick Gammell against the decision of Central Bedfordshire Council.
 - The application Ref CB/23/00499/VOC, dated 13 February 2023, was refused by a notice dated 28 June 2023.
 - The application sought planning permission for five additional caravans for Romani Gypsy families on an existing Gypsy site. The site is laid out to six separate sections and permission is sought for an additional static caravan on three of the existing pitches and two caravans (one static) on the land at the top of the site. The new pitch to contain one static caravan, one touring caravan and parking for two vehicles with associated hard standing and water treatment plant without complying with a condition attached to planning permission Ref CB/13/03217/FULL, dated 11 November 2013.
 - The condition in dispute is No 3 which states that: The occupation of plots 1,2 and 4 and plot 6 hereby permitted shall be carried on only by the following and their resident dependants: Alby Smith & Joyce Smith, Albert Smith & Claire Smith and Maurice Hughes & Catrina Hughes on plots 1,2 and 4. Sam Smith and Noreen Smith on plot 6.
 - The reason given for the condition is: In recognition of the location of the site in the Green Belt and the "very special circumstances" case accepted in accordance with the National Planning Policy.
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Decision

1. The appeal is allowed and planning permission is granted for five additional caravans for Romani Gypsy families on an existing Gypsy site. The site is laid out to six separate sections and permission is sought for an additional static caravan on three of the existing pitches and two caravans (one static) on the land at the top of the site. The new pitch to contain one static caravan, one touring caravan and parking for two vehicles with associated hardstanding and water treatment plant at The Evergreens, Leighton Buzzard, LU7 9PU in accordance with the terms of the application, Ref CB/23/00499/VOC, and the plans submitted with it, without compliance with conditions 1,2,3,5,6,7,8,9,10,11 and 12 and subject to the following conditions:
 - 1) 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, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

- 2) No more than two caravans shall be located on plot 6 of the site of which no more than one shall be mobile homes/static caravans. No more than three caravans shall be located on plots 1, 2 and 4 of the site of which no more than two shall be mobile homes/static caravans.
- 3) No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

Application for costs

2. An application for costs was made by Mr Patrick Gammell against Central Bedfordshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The National Planning Policy Framework, December 2024 (NPPF) and the Planning Policy for Traveller Sites, December 2024 (PPTS) have been issued since the appeal was made and statements of case submitted. The main parties have had an opportunity to comment on them. The Council now accept the proposal is not inappropriate development in the Green Belt and on that basis and subject to a personal condition identifying Mr Patrick Gammell and his wife as occupiers, do not seek to defend the appeal¹.
4. At the hearing I also heard evidence in relation to appeal refs: APP/P0240/C/23/3316029, APP/P0240/C/23/3316030, APP/P0240/C/23/3316089, APP/P0240/C/23/3316090, APP/P0240/C/23/3316091, APP/P0240/C/23/3316095, APP/P0240/C/23/3316096 relating to Land Known as Chiltern Meadows (Rear of Kingswood Nursery), Dunstable Road, Tilsworth, which adjoins the appeal site. Those appeals are the subject of a separate decision.

Background and Planning History

5. The Evergreens is located to the north of Dunstable Road. The plots are served by an internal access that runs through the site. Kingwood Nursery Travellers site lies to the east of the site and Home Farm to the west.
6. The planning history for The Evergreens goes back to 2007 when personal permission was granted for a temporary period for the retention of a residential caravan site for the siting of eight Gypsy caravans. This development was subsequently granted a permanent personal permission, but at that time the permission did not include Plot 6. In November 2013 planning permission was granted for five additional caravans for Romani Gypsy families at The Evergreens. The site was laid out to six separate sections and permission was granted for an additional static caravan on three of the existing pitches and two caravans (one static and one tourer) on the land at the top of the site (Plot 6) and for the parking for two vehicles with associated hard standing and water treatment plant. The planning permission granted was subject to 12 conditions. Condition 3 restricted occupancy to Alby Smith & Joyce Smith, Albert Smith & Claire Smith and Maurice Hughes & Catrina Hughes on plots 1,2 and 4. Sam Smith and Noreen Smith on plot 6 and their resident dependents.

¹ Supplementary Statement of Case on behalf of Central Bedfordshire Council

7. The appellant and his wife currently occupy Plot 6 and the application the subject of this appeal seeks to regularise their occupation by varying Condition 3 to substitute their names for those of Sam and Noreen Smith, or in the alternative, to remove Condition 3 completely if it is no longer deemed necessary.

Main Issue

8. The NPPF states that planning conditions should only be used where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects (the six tests). The main issue is whether Condition 3 meets the six tests, and if not, whether it should be removed or a new condition imposed instead of it. If the appeal is successful a new planning permission would be granted.
9. The determination will be informed by consideration of the effects on the Green Belt. Additional considerations include aspects of need and supply of traveller sites, the occupiers of the site, human rights and equality issues. Article 8, a Convention Right², affords a person the right to respect for their private and family life, their home and their correspondence. This qualified right requires a balance between the rights of the individual and the needs of the wider community. There is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsy and travellers as a minority group means some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular issues.
10. The public sector equality duty (PSED) set out under section 149 of the Equality Act 2010 requires that I have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. Romani Gypsies and Irish Travellers are ethnic minorities and have the protected characteristic of race under section 149(7). The PSED is engaged. The decision must be proportionate to achieving the legitimate planning aims.

Reasons

11. The appeal site is within the Green Belt. Policy SP4 of the Central Bedfordshire Local Plan 2015-2035, adopted July 2021 (the Local Plan) states the general presumption against inappropriate development in the Green Belt and that development proposals will be assessed in accordance with national policy in the NPPF.
12. Having regard to the NPPF definition³, the local planning authority (LPA) accept that the site is grey belt. From the evidence before me I see no reason to disagree.
13. Paragraph 155 of the NPPF advises that the development of homes, commercial or other development in the Green Belt should not be regarded as inappropriate development where all of the following criteria apply.
 - a. *The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*

² Article 8 of the European Convention on Human Rights, which was enshrined into UK law by the Human Rights Act, 1998.

³ Annex 2: Glossary, NPPF.

- b. There is a demonstrable unmet need for the type of development proposed;*
- c. The development would be in a sustainable location,;*
- d. Where applicable the development proposed meets the 'Golden Rules' requirements.....*

Considering the proposal is to amend/remove a personal condition on the grant of planning permission, and no further development is proposed, the Council do not dispute that the proposal would comply with criteria (a) and (c) of paragraph 155 as set out above. Furthermore, the grant of planning permission is for a Gypsy and traveller site, and the LPA accept that they have an unmet need for Gypsy and traveller sites (criteria c) and that the Golden Rules are not applicable to this form of development (criteria d). From the evidence before me, I concur with that assessment and as such the proposal is not inappropriate in the Green Belt and there is no conflict with the NPPF or Policy SP4 of the Local Plan. The need for very special circumstances is no longer necessary and, as such, other considerations, including personal circumstances are not necessary to justify the development.

14. I conclude that Condition 3 is not necessary, and it would be unreasonable to impose a condition restricting the grant of planning permission to named occupiers. The appeal therefore succeeds. I shall grant a new planning permission subject to those conditions which remain necessary and as agreed with the main parties at the Hearing. Those conditions are necessary to retain a supply of Gypsy and Traveller Sites and to protect residential amenity and the character and appearance of the area.

Conclusion

15. For the reasons given above and taking into consideration all matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Matthew Green, Green Planning Studio Ltd

Mr Patrick Gammell, The Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mr Phillip Hughes BA (Hons) MRTPI, FRGS, Dip Man MCIN

Helen Heanes, Manager of Central Bedfordshire Gypsy and Traveller Unit.

Mr David Hale, Gypsy and Traveller Planning Manager, Central Bedfordshire.