



Appeal Decision

Hearing held on 26 July 2022

Site visit made on 26 July 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/C3430/W/21/3274008

Land west of Dark Lane, Coven, Wolverhampton WV10 7PN

- 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 Michelle Follows against the decision of South Staffordshire Council.
 - The application Ref 20/00404/FUL, dated 26 May 2020, was refused by notice dated 29 October 2020.
 - The development proposed is use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use, and the erection of a stable.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use, and the erection of a stable at land west of Dark Lane, Coven, Wolverhampton WV10 7PN, dated 26 May 2020, subject to the conditions in the Schedule to this decision.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the Cannock Chase SAC; and
 - Whether any 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 required to justify the proposal.

Reasons

Whether the proposed development would be inappropriate development

3. The appeal site comprises a triangular parcel of land flanked on its western side by a canal. Extending along its eastern boundary is Dark Lane. The site is located within the countryside, outside of the village of Coven.

4. The site sits to the south of a modern dwelling, and to the north of an existing gypsy and traveller site, occupied by the appellant's parents and sister. On the eastern side of Dark Lane are further gypsy and traveller pitches and on the other side of the canal are cottages and a golf driving range. The surrounding area has a semi-rural character with gaps between the built form.
5. A static caravan is positioned on the site along the western boundary with a grassed area next to it forming a garden. The remainder of the site is largely laid out to hardstanding. The site is screened from the public realm by mature planting and boundary fencing.
6. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Policy E of the Planning policy for traveller sites (PPTS) states that traveller sites, either temporary or permanent in the Green Belt are inappropriate development.
8. Policy GB1 of the South Staffordshire Core Strategy (2012) (CS) relates to development in the Green Belt and states that development proposals will be assessed in accordance with national guidance. Policy H6 relates to proposals for gypsy and traveller sites. Part 8 a) sets out that proposals that have a demonstrably harmful impact on the openness of the Green Belt will be resisted.
9. The appellant contends that both policies are not consistent with the Framework as they are more restrictive and do not take account of the 'very special circumstances' balance. Policy GB1 diverts to national policy in respect of development in the Green Belt allowing the decision taker to apply the Green Belt balance. Despite the appellant's contention I find that both policies are consistent with the Framework, as they seek to protect the Green Belt from inappropriate development.
10. The site contains a static caravan, but this would be re positioned within the site to sit parallel to Dark Lane. The proposal also includes the construction of a day room, along the southern boundary, stables and a space for a touring caravan to be parked in roughly the position currently occupied by the static caravan.
11. Both parties agree that the proposal would be inappropriate development in the Green Belt and based on the evidence before me I can only draw the same conclusion. As such, it represents inappropriate development within the Green Belt as set out in paragraphs 147 and 148 of the Framework, the PPTS and CS Policy GB1 and Part 8 a) of Policy H6.

The effect of the proposal on the openness of the Green Belt

12. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
13. The appellant contends that the proposal would be small scale residential development having a limited impact upon openness, at the bottom end of the scale of harm. The Council, however, advise that the quantum of development

made up of the mobile home, day room and stables would have a far greater impact on openness.

14. Visually I acknowledge that the proposed development would be largely screened from the public realm by existing boundary planting reducing the visual impact of the proposal. Conditions relating to the number of caravans, site layout, commercial use and vehicles and landscaping would also serve to mitigate this impact. However, in terms of Green Belt impact the proposal would introduce built form made up of a number of buildings and structures on the site resulting in a loss of openness in spatial terms. As such, I find that it would lead to a moderate reduction to the openness of the Green Belt contrary to one of the aims of the Framework.
15. One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. Prior to the siting of the static caravan the site was undeveloped. There has been an intrusion into the countryside, but this is limited due to the small area of the site and is well contained due to the neighbouring built form, road and canal. In addition, the site, in my view, is heavily influenced by and has more affinity to this built form rather than the wider countryside. The harm by this intrusion would not be significant, despite the presence of hardstanding, caravans and associated structures.

Effect on the Cannock Chase SAC

16. The appeal site lies within the 8-15km Cannock Chase SAC Zone of Influence (outer zone). The SAC is a European site and is principally an area of lowland heathland and the most extensive such habitat in the Midlands. The SAC contains the main British population of the hybrid bilberry, a plant of restricted occurrence; and important populations of butterflies and beetles. Also found within the SAC are the European Nightjar and five species of bats.
17. As the appeal site is in close proximity to the SAC, and residential development is of a type that is likely to result in recreational visits to the protected habitat and the creation of new paths, path widening, erosion and nutrient enrichment it is necessary for me, as the competent authority for the purposes of the Habitat Regulations¹, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SAC.
18. The Cannock Chase SAC Partnership has agreed Strategic Access Management and Monitoring Measures (SAMMM) with Natural England which requires a mitigation payment per residential dwelling from all new development within an 15km radius.
19. The appellant has submitted a UU which commits her to a financial contribution towards measures outlined in the SAMMM. I am satisfied that the contribution would sufficiently mitigate the development's impact overcoming the Council's concern in respect of this matter. As such, whilst the development would have a likely significant effect on the integrity of the SAC it would be adequately mitigated through monies in the UU.

Other Matters

20. I note that the Council consider the proposal would not harm the character or appearance of the Staffordshire and Worcestershire Canal Conservation Area

¹ Conservation of Habitats and Species Regulations 2017 (as amended)

and I have no reason to disagree. The proposal would preserve the significance of this designated heritage asset, in accordance with the Framework.

21. The Council have referred to two appeal decisions which they consider relevant to the scheme before me. However, it is incumbent upon me to assess the merits of the proposal before me based on its individual merits, as I have done. Whilst I have paid regard to these decisions it is evident that the individual circumstances in each appeal are not comparable to the scheme before me. They do not lead me to reach a different conclusion on the main matters.
22. I have taken account of representations received regarding impact on living conditions, highway safety, noise, odour and trees. The proposed mobile home would be sited along the boundary with Dark Lane and whilst raised from the ground the boundary treatment along the canal would provide adequate screening. In addition, there is sufficient separation between nearby dwellings and the proposal to ensure satisfactory living conditions.
23. I find that the development would not severely diminish the living conditions of existing occupiers in terms of noise or odour when considering the modest scale of the development and the relatively low levels of noise generated by residential activities.
24. There is no credible evidence before me to suggest that the development would result in the loss of trees. There is also no substantive evidence to suggest that the development would harm highway safety, particularly as the Highway Authority raise no objection.
25. With regards to matters related to the impact on property values, the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property could not be a material consideration. I have not therefore taken this into account when making my decision.

Other considerations

26. While also protecting the Green Belt from inappropriate development 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 plans should identify and update annually 5 years' worth of deliverable sites for gypsies and travellers.
27. 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 shortfall, in my view, is considerable standing at 38 pitches. To me and despite the Council's efforts it is apparent that the Core Strategy and the Site Allocations Development Plan Document are not delivering the required number of pitches on the ground.
28. The South Staffordshire Council Gypsy and Traveller Accommodation Assessment Final Report (2021) (GTAA) sets out a need for 121 pitches for the period 2021-2038. There is also need for a further 33 pitches for undetermined gypsy and traveller households and those that do not meet the planning definition in the PPTS.

29. The appellant challenges these figures and contends that the GTAA fails to properly consider concealed households, doubled households and overcrowding, as well as hidden needs. The appellant suggests that over the next 10 years there is a need for 160 additional pitches in the district.
30. Whilst the GTAA is yet to be subject to public examination it provides the most up to date and comprehensive assessment available for the area. For the purposes of this appeal, it provides a picture of the need for pitches in the district. Irrespective of whether I take the figure in the GTAA as more accurate or the appellant's it is evident that there is an unmet need in the district that will need to be addressed.
31. There is a substantial unmet need for gypsy and traveller pitches in the area with the Council unable to demonstrate a 5 year supply of deliverable sites. Whilst the new local plan is emerging the Council accept that sufficient sites are yet to be identified to meet the need outlined in the GTAA. Furthermore, the vast majority of the district falls within the Green Belt, a further constraint in respect of delivery. As such, I attach significant weight to this matter.
32. The appellant currently resides on the site and has done so for the last few years. The appeal scheme would be occupied by the appellant and her children. The parties agreed all these residents fell within the definition of gypsy and travellers in the PPTS, and I have no reason to find differently. All of the children attend schools within the local area and regularly attend a nearby church. I was also told that a number of these residents have medical needs and attend clinics nearby.
33. The appellant's parents occupy pitches immediately to the south of the site, but her personal circumstances means that she cannot reside with them. Despite this, the appellant advises that her parents play an important family role supporting her and her children.
34. The interests of the children would, in my view, be best served by having a settled base and clearly have family, educational and religious connections locally. Moreover, it was established at the hearing that there are no alternative pitches or options currently available to the appellant. If the appeal were to be dismissed there would be no other option but to exist 'roadside' with her children.
35. Taking account of all these factors, I give significant weight to the personal circumstances of the appellant and her children who would continue to occupy the site.

Planning Balance

36. Paragraph 148 of the Framework states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
37. The proposal would be inappropriate development within the Green Belt. It would lead to moderate effects upon the openness of the Green Belt and would cause limited harm because of the conflict with the Green Belt purpose of

assisting in safeguarding the countryside from encroachment. In accordance with the Framework, I give substantial weight to this harm.

38. The PPTS states that subject to the best interests of the child, personal circumstances and unmet demand are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, the personal circumstances of the appellant's dependants is a primary consideration. I have also taken into consideration the interference with the human rights of the appellant and her children if they were required to leave the site and take up a roadside existence given the lack of alternatives. This is of substantial weight in favour of the development.
39. The unmet need for gypsy and traveller pitches in the district; the absence of a five year supply of deliverable sites and the Council's failure to make appropriate provision carries great weight in the appellant's favour.
40. I acknowledge that intentional authorised development has taken place. However, on account of the unmet need in the district, the lack of alternative options, the personal circumstances of the appellant and her family and the site's limited contribution to the surrounding character and appearance I give this limited weight in the balance.
41. The Council has suggested granting a temporary permission until 31 December 2024. They contend that this would allow the appellant to remain on site in the short term until the new Local Plan is adopted and permission for an alternative pitch granted, which the appellant could move to. However, I am not satisfied that the Council's approach is going to deliver the required number of pitches in this time frame or indeed within a slightly longer timeframe that would still be reasonable for a temporary permission. Furthermore, there is no certainty that the pitches coming forward would be in a suitable location or size to meet the appellant's individual circumstances. Accordingly, I do not find that such a condition would be reasonable.
42. I have paid regard to the best interests of the children living on the site and the appellant's personal circumstances, as well as the need more generally for pitches in the area. The Council has suggested conditions for a personal permission and for the site to be restored to an open condition once it is no longer occupied by the appellant. However, taking into account the current shortfall of pitches I am of the view that it would be reasonable to permit any person that meets the definition of a gypsy and traveller in the PPTS to occupy the site, in the event the appellant no longer wished to occupy it. I therefore do not consider that such conditions would be reasonable.
43. The Framework makes clear that inappropriate development should not be approved except in very special circumstances and that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations.
44. Taken together and having regard to the above, in my judgement, the harm caused by reason of inappropriateness and any other harm, is clearly outweighed by other considerations in these particular circumstances, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

45. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michelle Follows	Appellant
Matthew Green	Green Planning Studio

FOR THE LOCAL PLANNING AUTHORITY:

Paul Turner	Planning Consultant
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DOCUMENTS SUBMITTED AT THE HEARING

1. Unilateral Undertaking
2. Updated witness statement from Ms Fellows
3. Updated Assessment of the Need for Gypsy and Traveller Pitches in South Staffordshire prepared by Green Planning Studio

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Statement of Steve Jarman Opinion Research Services Ltd on behalf of the local authority
2. Response to Statement of Steve Jarman Opinion Research Services Ltd prepared by Green Planning Studio

Schedule of conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites.
- 2) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 3) The access and turning areas shall be laid out within the site in accordance with Drawing Number 19_1073_003, within 6 months of the date of the permission, for vehicles to turn so that they may enter and leave the site in forward gear and the areas shall thereafter be kept available at all times for those purposes.
- 4) No more than 1 commercial vehicle shall be stationed, parked or stored on this site. Its weight shall not exceed 3.5 tonnes.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) Within 3 months of the date of the permission a scheme of landscaping shall have been submitted to the local planning authority. Once approved in writing the scheme shall be carried out in accordance with the details within 6 months.