



Appeal Decision

Inquiry Held on 21-24 September 2021

Site visit made on 22 September 2021

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2022

Appeal Ref: APP/H2265/W/21/3267037

Oak Tree Stables, Vigo Road, Fairseat, Sevenoaks, TN15 7LR

- 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 Mr A Sutton against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/20/01665/FL, dated 31 July 2020, was refused by notice dated 7 January 2021.
 - The development proposed is Change of use of land from equestrian use to use for the stationing of 2 x mobile homes for residential use with associated 2 x touring caravans, and cess pit.
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Decision

1. The appeal is allowed and planning permission is granted for Change of use of land from equestrian use to use for the stationing of 2 x mobile homes for residential use with associated 2 x touring caravans, and cess pit at Oak Tree Stables, Vigo Road, Fairseat, Sevenoaks, TN15 7LR in accordance with the conditions in Annex A.

Procedural Matters

2. The application form describes the scheme as '*Siting of 2 Mobile Homes for residential occupation by Gypsy/Travellers*'. The parties agreed the description in the Statement of Common Ground and this was confirmed at both the case management conference and Inquiry as being '*Change of use of land from equestrian use to use for the stationing of 2 x mobile homes for residential use with associated 2 x touring caravans, and cess pit*'. Therefore I have used this description in the banner heading.
3. The application seeks permission for the change of use of land to station 2x mobile homes with 2x associated touring caravans. These are shown on the submitted plans which indicate they would be sited within the areas of the existing sand school. At the time of my visit the use had commenced and the appellant and his family were living on the site where two static mobile homes and two touring caravans were stationed. Additionally the site has the stable block and barn in place and the paddocks are used for the keeping of horses.
4. The Council highlighted that the development on site for stationing of the mobile homes differs from that shown on the plans. At the Inquiry the appellant's advocate requested that the appeal be considered on the basis of the proposed plans.

5. I am mindful that the appeal process should not be used to evolve a scheme and it is important that what I consider is essentially what was considered by the local planning authority, and on which interested people's views were sought¹. Therefore, in line with this advice I confirm that I have decided the appeal on the basis of the proposal as set out in the submitted planning application and the drawings accompanying it. Thus, whilst appreciating that the use as has commenced, I will continue to refer to the scheme overall as a proposal. I am satisfied that my determination of the appeal on this basis does not affect the Council's consideration of any other works undertaken at the appeal site, up until now or in the future.
6. There is no dispute that the site benefits from planning permission for change of use of agricultural land to a paddock for keeping of horses and a detached stable block, with applications made in 2012 and 2014². The stables have been constructed and are on site. A further consent was granted for the erection of a cart lodge/storage barn and sand school³. This has been implemented with the barn being in place on site. The area that comprised the sand school is the area where the appellant has applied to station two mobile homes and touring caravans.
7. Reference was also made at the Inquiry to an enforcement notice concerning unauthorised hard surfacing. There was dispute regarding the extent of the notice and whether it had been complied with. The Council in its closings accept that the question of compliance with this notice would not be a direct issue bearing on the appeal. As such I have attached very limited weight to this point.
8. The oral evidence to the Inquiry by Mr A Sutton was given under affirmation.
9. The Council's reason for refusal questions whether the appellant would meet the definition for 'gypsies and travellers' set out within the glossary of the Planning policy for traveller sites (PPTS). In addition the Council considered that there was not enough evidence submitted on this point at application stage. This issue was also raised by the Rule 6 party and local residents in evidence⁴. I have considered all the submissions carefully.
10. The appellant states he has gypsy lineage and he continues with his work by travelling, including tree work and horse fairs. He also travels with his family to various 'horse meets' where he buys and sells horses and carts. He has never owned a house but did live in a property belonging to his ex-wife. He moved out around 2003 and was travelling up until 2020 when he moved onto the appeal site. The appellant has submitted evidence of regular travelling for economic purposes, so for work, to attend horse fairs as well as cultural and family events for himself and his son who would occupy the second plot. The appellant's daughter and her children would also reside with him on a plot. Within his evidence⁵ he confirmed that they have been leading a roadside existence prior to moving to the site with her children. On the basis of the evidence before me I have no reason to doubt that the appellant and the other intended occupiers fall within the PPTS definition.

¹ Annex M of the Planning Inspectorate's Procedural Guide, Planning Appeals, England.

² TM/12/02922/FL; TM/14/01159/FL

³ ID4, LPA ref TM/16/00657/FL

⁴ Mr Bott Proof of evidence para 29-31, ID3 and 18-23 of the R6 Closing submissions

⁵ Proof of Mr Alan Dean Sutton para 1.10 and 1.11

Main Issues

11. The parties agree that the appeal scheme is inappropriate development in the green belt. Accordingly the main issues in this case relate to:
- the effect of the scheme on the openness and purpose of the Green Belt;
 - the effect of the scheme on the character and appearance of the area; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Openness

12. Core Strategy (CS) policy CP3 establishes the extent of the Green Belt in the district. The sites location within the Green Belt is not a matter in dispute.
13. Openness is an essential characteristic of the Green Belt. It has a visual dimension as well as a spatial aspect. The proposal would introduce two residential pitches, each of which would include a static caravan, and a touring caravan. The development as a whole would be served by an existing access. The residential use of the site would introduce associated paraphernalia and activity including the parking of vehicles. In spatial terms it would introduce additional development onto the site.
14. The appellant has referred me to the approved developments on the site and that the sand school⁶ could legitimately be revealed and its use reinstated. I acknowledge that this could be the case and that the existing lawful uses on the site include buildings and so are not wholly open in nature. However, the sand school plan⁷ does not show any structures within the sand school area and it was described to me at the Inquiry as a hardstanding base. Therefore, whilst noting this area could be used as a hard surfaced area and a sand school, the information before me demonstrates that the use as a sand school is clearly distinct from the positioning of the mobile homes and tourers.
15. Therefore, even taking into account the existing consents, buildings and development on site, overall the proposal would lead to that part of the Green Belt in which the appeal site is located being more built up than it is now. In spatial terms this would lead to a loss of openness. I appreciate that to accord with the plans the amount of hard standing would be reduced and additional landscaping could be provided. Whilst there is likely to be a degree of screening the development will also result in a visual loss of openness in the Green Belt.
16. As a result in addition to the harm that would be caused by its inappropriateness, the proposal would also have a detrimental impact on openness and would fail to prevent encroachment in the countryside and so undermine one of the purposes of the Green Belt. I acknowledge that the appellant considers that limited weight should be afforded to loss of openness. However, para 148 of the Framework is clear that substantial weight should be

⁶ Shown on Proposed Block Plan 06 Rev E as being about 24m by 15m

⁷ ID4

given to any harm to the Green Belt. Therefore, this harm to openness also attracts substantial weight as set out at paragraph 148 of the Framework.

Character and appearance

17. The scheme would result in the change of use of the land for the use for the stationing of 2 x mobile homes for residential use, associated 2 x touring caravans, and cess pit. The appeal site is within the countryside for the purposes of the application of planning policy. In terms of character and appearance the Council articulated that the key concern related to whether it would be visually intrusive and therefore out of character in the countryside.
18. CS policy CP14 countryside addresses development in the countryside and sets out a number of criteria that restrict development. The appeal scheme would not fall within any of these criteria and as such it would be in conflict with CP14. CS policy CP20 is a criteria based policy relating to the development of new traveller sites. The supporting text sets out the need for additional proposals to be assessed on their merits and again part 2 of the policy. Part 2 lists 5 criteria that have to be met. At the Inquiry the area of disagreement was narrowed to compliance with criterion (b). This permits sites for gypsy and traveller accommodation if '*...residential or rural amenity is not prejudiced as a result of visual intrusion, excessive noise, lighting, traffic generation or activity at unsocial hours*'. CS policy CP24 seeks good design and that development should not be detrimental to the functioning of and character of the countryside. Policy SQ1⁸ requires all new development to protect, conserve and where possible enhance the character and local distinctiveness of an area.
19. The PPTS refers to the provision of gypsy and traveller sites in the countryside. Paragraph 25 is clear that they should be strictly limited in open countryside and paragraph 26 goes on to set out the matters to be considered for applications for sites in the countryside including effective use of previously developed, untidy or derelict land, sites being well planned or soft landscaped to positively enhance the environment, promote opportunities for healthy lifestyles, not enclosing a site with excessive hard landscaping, high walls or fences.
20. The appellant submitted a Landscape and Visual Impact Assessment⁹ (LVIA) with the appeal documents. This refers to the Landscape Assessment of Kent and there is no dispute that the appeal site lies within the Ash Downs Character Area. The LVIA goes further and seeks to look more closely at the landscape at a local level. This identifies that the locality within which the appeal site is located is characterised by grazed areas, scattered paddocks, accessed via bridleways and footpaths, medium sized fields bounded by mature hedgerows and trees, some past land use and a managed landscape. The LVIA identifies that the area has an overall medium value and medium landscape sensitivity. This was not disputed by the Council. It considers the baseline, visual receptors and effects on key visual receptors.
21. Bridleway MR216 is located to the north side of the site and in close proximity to the site boundary. Views into the site when travelling along it are of the tops of the mobile homes and filtered by the existing trees and hedgerows. There are some dwellings located close to the appeal site. The LVIA identifies

⁸ Managing Development and the Environment Development Plan

⁹ Appendix A to Mr Petrow proof of evidence

- these as being Whitecroft, The Herons, 1a and 1b Oakwood Farm and the Council does not dispute this. Any views of the appeal proposal from these properties at ground floor level or from within garden areas would be filtered by the existing boundary planting.
22. The site frontage to Vigo Road contains a mature hedgerow. From the road views into and across the site are filtered through the hedgerow. The entrance gates and access to the site are visible. The landscape strategy plan¹⁰ indicates that the existing entrance gate and fence, which appear solid, would be replaced by field entrance gate. The main view down the access would be of the existing hardstanding. The access to the site would be in broadly the same position as that shown on ID4 as part of a permitted scheme for cart store/storage barn and construction of a sand school. The surface is shown to be a bonded gravel finish. The views of this would be filtered and subject to the change to the gates the harm to the character and appearance of the area arising from this element alone would be low.
23. Overall the conclusions of the LVIA are that the visual effects of the scheme would be permanent but the significance of them would be low adverse. I appreciate that the Council have not undertaken an LVIA. Nonetheless, there are considerations regarding the impact of the scheme on the rural area as a whole as required by the development plan.
24. The Council and Rule 6 raised a concern about the impact of external lighting. The Council does not dispute that there was a requirement for the submission of a scheme for the site, as part of the previous planning permission for the sand school, and that this condition has been discharged. Therefore, lighting already exists on the site and any additional requirements arising directly from the appeal scheme could be controlled by the imposition of an appropriately worded condition. As such I do not consider that the impact of the appeal scheme on lighting in the countryside would be significantly harmful.
25. The provision of fencing and a beech hedge are shown on the landscape strategy and ID4. There was no dispute that the wall that has been built is not lawful. In his evidence Mr Sutton Jnr set out that the intention was to remove the wall and some of the fencing if the appeal was allowed. He confirmed that the laurel and beech hedging has been added on site. Overall, the visual impacts of the residential use would be confined to the areas where the mobile homes are proposed to be sited. The wider site would continue to be used for keeping of horses with the lawful buildings in place for stabling and hay storage.
26. In this case the planning history of the site demonstrates that this part of the site was not undeveloped¹¹. The approved buildings and uses were in connection with a wider equestrian use of the site which is clearly distinct from a residential use on the site. The site is between other residential dwellings along Vigo Road. The residential pitches would be set back within the site away from Vigo Road. They would be located within the area permitted for the sand school¹². In this regard they would increase built development within the countryside and lead to it being more built up.

¹⁰ Figure 14 LVIA

¹¹ ID4

¹² TM/16/02116/FL

27. There would be an impact to character and appearance arising from the stationing of the mobile homes, storage of tourers and other domestic paraphernalia. However, fundamentally in terms of visual impact and matters of character and appearance the baseline position for the appeal site is that it was not an open undeveloped field in the countryside. The existing planning permissions resulted in the presence of buildings, an access and areas of hardstanding. The provision of residential mobile homes and tourers would inevitably impact on the character of the countryside by adding to the number of urbanising elements on the site. Nevertheless, when taking into account the overall context of the site history and evolution, I consider that the proposal as a whole would not appear unduly urbanising within the countryside and would not therefore detract from the character of its surroundings. The scheme could be assimilated into its surroundings therefore the overall visual and landscape harm from the scheme resulting from the provision of the mobile homes and touring caravans would ultimately be extremely limited.
28. Overall, I conclude on this issue that the development would not have an adverse effect on the character and appearance of the area, subject to the imposition of the conditions as discussed at the Inquiry. This aspect of the development is therefore in accordance with CS Policies CP24, CP20 and SQ1 and the PPTS.

Other considerations

29. According to paragraph 147 of the Framework inappropriate development is by definition harmful to the Green Belt. Paragraph 148 advises that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The appellant has put forward a number of other considerations in this case.

Previous developed land and fall back situation

30. Previously developed land (PDL) is defined in the Framework¹³. The appeal site would be developed of a site which has planning permission for use as a sand school. On this point the appellant raised that criteria (a) of the PPTS refers to the effective use of previously developed land. Whilst the site is located in the countryside it would be for two families. As such at this scale it would not dominate the nearest settled community. The landscape strategy¹⁴ clearly demonstrates how the site would be planned to minimise hard landscaping, provide soft landscaping and integrate the site into the wider area. Therefore the addition of development of this amount in this location would not appear disproportionate and there is no evidence that it would place undue pressure on local infrastructure.
31. I have considered the fallback position regarding the reinstatement of the sand school in my consideration of openness and character and appearance. In that context I have afforded them weight in favour of the scheme and will return to this as appropriate in the planning balance.

The need for and supply of gypsy sites

¹³ Annex 2

¹⁴ Figure 14 LVIA

32. The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply. It also requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. The Council have accepted that there is an unmet need for further gypsy and traveller pitches in the area and that it does not have a five year supply of sites¹⁵.
33. I acknowledge that, whilst the Council's emerging plan (ELP) has been withdrawn, that the GTAA was part of the evidence base and that the substance of the ELP report did not in fact challenge this assessment of future pitch needs. Nevertheless, this does not alter the fact that without a plan in place there are no allocations and a plan led approach to such provision is not in place.
34. The ELP was withdrawn at a meeting of the Full Council on 13 July 2021 following receipt of the Inspectors Report¹⁶. As such the policies considered within it fall away. The Council accepts that there is an unmet need for further Gypsy and Traveller pitches in the area and that it cannot currently show a five year supply of sites. The GTAA was finalised in February 2018 and formed part of the evidence base of the emerging plan. Nonetheless, it remains the most recent assessment of need in the borough. Withdrawal of the emerging plan means that the process of site allocation and call for sites has halted. The Council's own evidence¹⁷ acknowledges that the GTAA identifies how need will be met and that this would be achieved through policies in the now withdrawn plan.
35. There is therefore an unmet need and also going forward in the absence of a clear timetable for a new plan. The PPTS¹⁸ is clear that this would be a significant material consideration when considering the grant of temporary planning permission but the exception to this is where the proposal is on land designated as greenbelt. The appellant has indicated that he is seeking full planning permission but that a temporary consent should also be considered as an alternative. Therefore I have taken the unmet need into account in my conclusions and planning balance.
36. The appellant's view is that the site would score highly in site selection. However, I cannot prejudge this and plan making and decision taking should not be conflated. Nonetheless, there is no evidence that the Council has met the need identified and there is not a site allocations plan in place. As such, in the meantime, any need can only therefore be addressed through planning applications.

Alternative sites

37. I heard that prior to living on the site the appellant did not own property or any land and led a predominantly roadside existence. The appellant and his son are seeking to utilise the appeal site for themselves and Mr Sutton explained at the Inquiry that one of his daughters and her children now live with him. She has also been leading a roadside existence before coming to live with her

¹⁵ Para 43 of the Council's closing submissions, ref XX of Mr McQuillan

¹⁶ Mr Woods proof of evidence para 8.14 and appendix 3.

¹⁷ Statement of Case 7.3

¹⁸ Paragraph 27

father. She left as her marriage broke down and does not wish to return to that existence.

38. The Council raised the possibility of residing on a public site. Mr Sutton expressed that in his and his son's experience nearby public sites are full and when pitches do become available relatives of existing families on site are given preference for them. There was a suggestion at the Inquiry that two pitches may be available on a particular site. However, I was not provided with evidence of this or that they would in fact be available to the appellant and his family. Based on the evidence before me no known suitable alternative sites are available for the appellant and his family.
39. Following the close of the Inquiry an application form for a site in another borough was submitted. Specifically that the appellant's ex-wife and son are detailed as the applicant's for this scheme. The appellant's appendices show that this scheme has been refused planning permission. I appreciate that the site is provisionally allocated for 3 pitches and that part of this site has a lawful use as a caravan site. However, my understanding of the information provided is that this site is within a nearby local authority area, albeit within Kent. I have no evidence that this site would be available to the appellant and his son. In addition even if it were being in a neighbouring borough this may impact on the best interests of the children on site, considered below, who are enrolled in school and nursery. As such I attach very limited weight to this as an alternative.

Personal circumstances and accommodation needs

40. The site is occupied by the appellant, his daughter and her children in one mobile home and his son and his family occupy the other unit, they have one child who is not yet of school age. The appellant previously lived on the roadside and he indicated that up to 2020 he was travelling. He has never owned any land and the appeal site is not in his ownership but purchased for his son.
41. The appellant has specific health conditions which were discussed at the Inquiry and he has regular trips to hospital and appointments with his doctor. During the pandemic these were online but ordinarily require travel to London. The evidence refers to the linkage with supervision from his local GP. In addition the benefit of a non roadside existence is consistent access to the machinery required to manage his condition, especially overnight¹⁹.
42. The appellant has three children, who are now adults. One of his daughters live in a nearby town. His son lives on site with him in the second mobile home with his wife and newborn son. He shares his own mobile home with his other daughter and her three children. The two older children attend the local school and pre-school²⁰. I understand that they are doing well and have established friendships.
43. The appeal site would provide a settled base from which the appellant and his family could continue to access education and health care more readily. This would be advantageous to the well-being of the family and it would also be in the best interests of the children. It would also be close to his eldest daughter.

¹⁹ Appendix 1 of Mr Alan Dean Sutton's proof of evidence

²⁰ Appendices 2 & 3 of Mr Alan Dean Sutton's proof of evidence, paragraphs 1.10 & 1.11 of Mr Alan Sutton Proof of evidence

These matters count in favour of the proposal and accord with the aims of the PPTS to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure.

44. The site benefits from planning permission for stables and the scheme would allow the appellant and his son to continue to keep their horses. It would allow the appellant to provide on-site care and security for the horses as part of his traditional lifestyle and I appreciate that Policy F of the PPTS encourages mixed use traveller sites. The proposal would also reduce the number of car journeys and carbon emissions that are associated with caring for the horses at distance.
45. There are a number of children on site²¹. As settled rather than a mainly roadside existence would clearly be in the best interests of the children. It would ensure easier access to education, which would be the case for the children already at school, those approaching school age and in preschool/nursery²². I give the best interests of the children substantial weight.

Intentional unauthorised development

46. It is government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The written ministerial statement announcing this policy expressed concern that where the development of land has been undertaken in advance of obtaining planning permission there is no opportunity to appropriately limit or mitigate the harm that may have been caused. Particular concern was expressed about the harm that is caused by intentional unauthorised development in the Green Belt.
47. Aside from the harm due to inappropriate development in the Green Belt and the loss of openness and harm to one of the purposes of the Green Belt, the works that have taken place in advance of the planning application have prevented assessment of the proposal against relevant local plan policies aimed at protecting local character and the amenity of established residential areas.
48. The appellant accepts that the initial development was unauthorised but justify that approach because they believed that there was little point in seeking planning permission, having regard to what they saw as the Council's failure to make adequate provision for the accommodation needs of gypsies and travellers historically. I heard that the combination of the availability of the site and the familial connections with the owner influenced its selection alongside the wider issues of pitch provision in the borough. In the circumstances I consider that the nature and extent of the initial development, including the way it was carried out would weigh against the appeal scheme.

Other matters raised by the interested parties

49. Both the parish council and nearby residents were active participants in the Inquiry. I have already addressed some of the issues raised by the interested parties in terms of the need for gypsy and traveller pitches, the effect on the Green Belt and the fact that development was carried out before planning permission had been obtained.

²¹ Mr Alan Sutton's son and Charmain Leach's three children

²² Appendices 2 & 3 of Mr Alan Dean Suttons proof of evidence

50. Whether the site would be in a sustainable location where occupiers of the development would have acceptable access to local services and facilities and highway safety are the remaining matters.
51. The R6 party provided a highways report to the Inquiry which I have considered carefully and have referred me to the Parish Traffic Plan (TP)²³. Concerns were raised the Parish Council regarding the safety of Vigo Road and in particular accidents close to the site. Concerns within the representations relate to the width of the carriageway and the junction with Gravesend Road (A227). The TP refers to the fast traffic on Vigo Road being incompatible with the road being used by walkers, cyclists and horse riders.
52. The Council's evidence confirmed that the Highway Authority raised no objection on highway safety grounds. The evidence presented regarding accidents relates to a single vehicle incident to the east of the appeal site. In addition the site has a lawful use where vehicles have used the existing access point for some time in association with the stables, keeping of horses and storage barn. The appeal scheme would introduce a residential use onto the site and with that there would be associated vehicle movements. However, within the context of the lawful use I have no evidence that the appeal scheme would directly lead to an increase in movements to such a degree that it would lead to highway safety issues or that it would create a capacity issue for the junction of Vigo Road with the main road.
53. Concerns were also raised regarding the distance of the site from day to day services. I was able to see on my site inspection that the appeal site would be in close proximity to the existing dwellings in Fairseat. It would therefore have a similar relationship to them in terms of access to services. There is a bus stop some distance down the road which would provide access to wider services.
54. Within the immediate village there is a lack of services and the future occupants of the site would be reliant upon the private car, which the Parish Council submitted would not be a location for a dwelling that national policy would support. The site does have a peripheral village position and there would be limited access to alternative modes of transport. Nevertheless, the PPTS sets out at paragraph 13 that *'...Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally...'* and it goes on to set out criteria for local policies and part (d) is applicable which sets out that *'...provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment...'*. Overall, taking all of these matters into account the site should be considered to be neutral in terms of sustainability.

The overall planning balance

55. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. PPTS paragraph 16 states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

²³ HB1/3 and HB1/4

56. As set out above, there would be harm to the Green Belt by reason of inappropriateness and in relation to openness and the purposes of including land in the Green Belt. Limited weight must also be ascribed to the intentional unauthorised development of this Green Belt site. There would also be harm from the sites location in the countryside and conflict with CP14 in this regard.
57. I have found that there would be no undue harm to the character and appearance of the area. This does not weigh in favour of the proposal but has a neutral effect on the overall balance.
58. The need for gypsy and traveller sites carries weight in favour of the appeal. The personal circumstances of the family group carries significant weight in favour of the proposal. In particular, with this family group, the best interests of the children are a primary consideration which are at the forefront of my mind in considering the overall balance.
59. I have had due regard to the Public Sector Equality duty (PSED) in section 149 of the Equality Act 2010, which sets 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. Since the appeal is made for a gypsy site they are persons who share a protected characteristic for the purposes of the PSED. Although it does not automatically follow that the appeal should succeed, the need for sites and lack of identified sites in the development plan may indicate inequality of housing opportunity travellers. The equality implications add weight to my overall conclusion that the appeal should be allowed.
60. Whilst none of the factors of the proposal individually outweigh the harm to the Green Belt the cumulative effect of that harm and the harm by reason of intentional unauthorised development in the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development. The very limited progress which has been made by the Council in terms of identifying sites to meet the acknowledged need that has been known about for many years and the considerable time it is still going to take to allocate sites, the need for a pitch on a site, along with the personal circumstances of the family group, lead me to conclude that a permanent personal planning permission should be given so as to secure a stable base for them.
61. At the Inquiry the appellant indicated that a temporary planning permission could be possible if I found against a permanent planning permission as it would be time limited and lessen the interference with the appellants' human rights while protecting the public interest. However, there is no certainty as to when the emerging plan will be re submitted and adopted and whether it would make provision for local need and the needs of the appellants and their families. Moreover, a temporary permission would not provide the long-term stability for the families and their children. In any event, a permanent personal permission would be acceptable based on the above balancing exercise. Therefore, I have not considered a temporary permission any further.

Conditions

62. Planning conditions were submitted by the Council, commented on by the appellant and discussed at the Inquiry with all parties present as a round table session. I have amended some of them slightly, in line with those discussions, for clarity.
63. Given the nature of the case and the weight attributed to personal circumstances of some of the occupants in the overall balance and a need for a pitch for all of the occupants the permission needs to be made personal and limited to gypsies and travellers.
64. A condition specifying the time limit for implementing the decision is necessary for clarity. Conditions 4 & 5 are necessary in the interests of character and appearance in terms of the number and position of caravans within the site. Conditions are also necessary to ensure no lorries on site beyond what is already permitted or the storage of materials associated with commercial activities, which would have negative effects on the surrounding area. Finally, as development as already taken place on site condition 9 is necessary to ensure that a landscaping scheme, lighting, material details, boundary treatments and enclosure are secured and implemented to provide adequate mitigation.

Conclusion

65. Therefore, for the above reasons and having regard to all other matters raised in evidence and at the Inquiry, I conclude that the appeal should be allowed.

D J Board

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

John Fitzsimons of Counsel

He called

Robert McQuillan

FOR THE APPELLANT:

Alan Masters of Counsel

He called

Robert Petrow

Brian Woods

Alan Dean Sutton

Alan Sutton

FOR THE RULE 6 PARTY:

Simon Bell of Counsel

He called

Harry Bott, Chair of Stansted Parish Council

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

- 1 Extracts from Manual for Streets 2
- 2 Opening on behalf of the Council
- 3 Third party document – Questions regarding the proof of evidence
- 4 TM/16/02116/FL - Proposed Block Plan
- 5 Opening Statement on behalf of Stansted Parish Council (Rule 6 party)
- 6 Decision notice TM/18/01240/FL
- 7 Information on bus stops, bus times, distances to shops
- 8 Extract from GOV.UK

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 9 Application form for Greenfields Farm
- 10 Appellant's Response Statement and attachments dated 21 February 2022
- 11 Council's response dated 28 February
- 12 Rule 6 response dated 28 February
- 13 Appellant's final comments dated 2 March 2022

Annex A – Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. 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 (or its equivalent in replacement national policy).
3. The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr Alan Sutton and Mr Alan Sutton Jnr.
4. No more than 4 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 2 shall be a static caravans) shall be stationed on the site at any time.
5. The static caravans shall be sited in accordance with plan no. J003636-DD-03 hereby approved.
6. No vehicles over 7.5 tonnes shall be stationed, parked or stored on the site.
7. With the exception of the buying and selling of horses and ponies, no other commercial, industrial or business activities shall take place on any part of the site, including the storage of materials and goods.
8. When the land ceases to be occupied by those named in condition 3, all hard standings, caravans, structures, materials and equipment brought on to the land in connection with the approved use shall be removed from the land within 6 months of the cessation of that occupation.
9. Unless within three months of the date of this decision a scheme for the details listed in (i)-(vi) is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The scheme shall include:

- i) the internal layout of the site including the extent of the residential pitch, the location of the caravans and vehicle parking and hard standings;
- ii) all boundary treatments and all other means of enclosure (including internal sub-division) and incorporating the retention (and augmentation where necessary) of the existing hedgerow/trees around the entirety of the site;
- iii) Details and samples of hard surfacing materials;
- iv) details of all external lighting;

- v) A planting plan, including a plant schedule with species, planting density and numbers;
- vi) A programme of works, including establishment maintenance.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved details specified in this condition, that detail shall thereafter be implemented in full and 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.

END