
2017/1175

Applicant: Mr Kevin Rogers, C/o Philip Brown Associates

Description: Erection of day room

Site Address: Whitegate Stables, Common Road, Brierley, Barnsley, S72 9ES.

Background

This application is referred to PRB as the site is located in the Green Belt. No representations have been received from any members of the public.

The site has been in place since 2004 and was made permanent in 2015 (application ref: 2015/0779 – removal of condition 1 of app 2011/1157 to allow permanent use of site for a gypsy family). No more than 5 caravans (of which no more than 2 can be static) are allowed on the site and no commercial activities are allowed.

The site is well maintained and there is no evidence that planning conditions are not being complied with.

Site Location and Description

The site is located to the east of Brierley within the open countryside. It is enclosed by hedges, walls and fences. The site is accessed off Common Road and there are dwellings to the south-west of the site off Common Road and north-west of the site along Park View. None of these directly border the site. The closest property is approximately 100 metres away.

Currently on the site are two static caravans, one touring van, a small amenity block and a storage building clad in corrugated iron sheeting.

Proposed Development

It is proposed to build an amenity building on the site measuring 11m x 6.1m with a pitched roof measuring 4.2m to the ridge. The building would house a bathroom with toilets and showers, laundry room and kitchen / dining area for use by all residents of the site.

The building will be a permanent structure, located at the western boundary of the site, adjacent to the site access.

Family Circumstances

The site is home to four families in total:-

- Kevin Rogers (senior) and his wife Roseanne and their five children
- Kevin Rogers (Junior) and his wife Lena and their daughter and son.
- Barry Blue Price and his wife Dilly and their two daughters.
- Mr and Mrs Rubin Rogers both 75 years old. Occupy the site in winter only, needed due to their age and vulnerability.

Mr Roger's (senior) son, Roman is 12 years old and has been diagnosed with Autistic Spectrum Disorder and the sub- category of Asperger Syndrome. Given Romans disability,

the fact Whitegates has been his only home and that he has built up a trusted peer group at the local School and in the surrounding community, the site was made permanent in 2015 on advice from the Social Worker for the Rogers family.

Policy Context

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and the saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The Council has submitted our emerging Local Plan to the Secretary of State but we are at an early stage in the examination process. It establishes policies and proposals for the development and use of land up to the year 2033. The document is a material consideration and represents a further stage forward in the progression towards adoption of the Local Plan. As such increasing weight can be given to the policies contained within the document although, in accordance with paragraph 216 of the NPPF, the extent of this will depend on:

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

UDP

Notation: Green Belt

Core Strategy

CSP18 'Sites for Gypsies, Travellers and Travelling Showpeople'

Sites will be allocated to meet the shortfall in provision of permanent sites. The following Criteria will be used in allocating sites and in determining planning applications for sites:-

In terms of their broad location sites will:

- Have good access to facilities
- Be primarily located within urban areas

In terms of their specific location the sites will:-

- Not be in an area of high flood risk
- Not be affected by contamination, unless the site can be adequately remediated
- Have adequate vehicular and pedestrian access from the highway
- Provide a good safe living environment with appropriate standards of residential amenity
- Have the ability to be developed in accordance with the CLG Gypsy and Traveller Site Design Guide (May 2008)
- Have no other restrictive development constraints

CSP34 'Protection of the Green Belt'

In order to protect the countryside and open land around built up areas the extent of the Green Belt will be safeguarded and remain unchanged.

The Green belt boundaries will be subject to localised review only which may result in changes necessary to deliver the Borough's distribution of new employment sites set out in CSP12.

CSP29 sets out the overarching design principles for the borough to ensure that development is appropriate to its context.

Other material considerations

South Yorkshire Residential Design Guide - 2011

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

In respect of this application, paragraphs 87 and 89 are relevant which state inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.

Planning Policy for Traveller Sites (PPTS)

This document sets out the Government's planning policy for traveller sites and should be read in conjunction with the NPPF.

Policy E: Traveller sites in the Green Belt

Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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

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Policy H: Determining planning applications for traveller sites

Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- the existing level of local provision and need for sites

- the availability (or lack) of alternative accommodation for the applicants
- other personal circumstances of the applicant
- that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- that they should determine applications for sites from any travellers and not just those with local connections

Consultations

Yorkshire Water Services Limited – No comments

Environmental Health - No objections

Highways – No objections

Public Rights of Way – No Objections as long as Footpath 14 is not obstructed (temporarily or permanently).

Policy – Verbally confirmed family history and “in the best interests of the child” can be applied to the amenity building.

Ward Councillors – No comments

Gypsy Liaison Officer – No comments

Drainage – No objections

Representations

The application was advertised through neighbour letters and a site notice placed on Common Road adjacent the site. No representations have been received.

Assessment

The proposal would be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.

As such, there are four main issues to consider.

- The effect of the development on the openness and visual amenity of the Green Belt.
- Whether there is any additional harm arising from the effect on gypsy policies in the Core Strategy and the PPTS.
- Whether there are other considerations which favour the proposal including the accommodation needs of the present occupiers and their personal circumstances, including the needs of the disabled son.

- 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 a permanent permission.

Openness and visual amenity

The site lies adjacent to the built up area of Brierley with residential properties to the west on Park View and to the south west on Common Road, however to the north and east lie open fields and the Brierley Common Flashes. The site lies off a track which runs to the north alongside adjacent fields and connects to an unmade footpath which runs to the rear of properties on Park View to the west. The authorised site comprises no more than 0.2 Ha of land set back from Common Road by approximately 90m. The nearest dwelling lies 100m from the site.

The site lies in relatively flat semi-rural setting slightly divorced from an adjacent bungalow marking the edge of the village and whilst it is visible when approaching Brierley along Common Road from the South East, a high boundary wall and conifers do provide some screening. The amenity building proposed is quite large (11m x 6.1m) but is proposed to be located within the existing site, adjacent the western boundary and site access. It will be well screened by the site boundary treatment and an existing toilet block will be removed.

This reduces the overall impact on openness and visual amenity with the proposed largely hidden from view and offset in part by the removal of an existing building on the site.

Other harm

Notwithstanding the fact the site is within the Green Belt, it broadly complies with the criteria in CSP 18. The site is not in an area of high flood risk or affected by contamination and has adequate vehicular and pedestrian access from the highway. It provides a good safe living environment with appropriate standards of residential amenity with the ability to be developed in accordance with the CLG Gypsy and Traveller Site Design Guide (May 2008). Whilst this guidance document has been withdrawn (following the adoption of the Planning Policy for Traveller Sites 2015), it remains the only guide as to what facilities should be provided within a traveller site. Amenity buildings, providing hot and cold water supply, electrical supply, a separate toilet, bath / shower room, kitchen and dining area being considered an essential requirement.

The proposed amenity building will replace an existing toilet block which houses two separate toilets and hand basins and is in a poor state of repair. Providing a bathroom with toilets and showers, laundry room and kitchen / dining area the proposed amenity building will substantially improve the facilities available on site. The building is not located where it would impact on residential amenity in terms of privacy or overshadowing.

Therefore, notwithstanding the impact on the green belt, the proposed will not cause any other harm in planning policy terms having a positive impact through providing improved facilities to an existing permanent site.

Personal circumstances

The site was granted permanent status in 2015 following two previous temporary permissions (granted on appeal in 2007 and extended in 2011). Permanent status was granted largely because it was deemed to be in the '*best interests of the child*'.

Paragraph 16 of the revised Planning Policy for Traveller Sites 2015 states,

“Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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”

The inclusion of “subject to the interests of the child” was included into the policy as a 2015 amendment, and given that the applicant's son has a disability in the form of Autistic Spectrum Disorder and the sub- category of Asperger Syndrome can be considered to carry substantial weight. Given the child has lived on the site his entire life and is settled into the local community and attends the local school and health care facilities, it was agreed that any move or change would be unhealthy for his well-being. This was supported by a statement from the Rogers family social worker.

The LPA considered this to be a key overriding circumstance that, along with the other circumstances (related to the family's needs and availability of alternative sites), substantiated very special circumstances in favour of the scheme. The Council's Legal Advisor backed up this view.

Limited information has been provided in support of this application, however, a site visit was undertaken on 9th October 2017 whereby it was confirmed with Mr Rogers that the occupiers of the site and the specific circumstances relating to Mr Rogers' son's disability remain as previously detailed in the 2015 application. The amenity building will be a shared resource for the whole site, providing essential facilities for the whole family without the need for multiple amenity buildings. It will ensure a safe living environment meeting the needs of the family and specific needs of Mr Rogers' disabled son (in line with the former Good Practice Guidance, Designing Gypsy and Traveller Sites).

Balancing harm against other considerations

Inappropriate development in the Green Belt is by definition harmful and must be given substantial weight. On the other side of the balance is the limited impact of the amenity building on the openness of the green belt and visual impact, the essential need for an amenity building on gypsy sites, the personal circumstances of the appellant and his extended family and the specific needs of 1 of the children living on the site all of which attract significant weight in support.

Overall Conclusion

The site is relatively self-contained and partially screened from surrounding vistas to ensure that existing residents are not unacceptably affected or disturbed. The site is also well maintained and there is no evidence of any activities occurring which would upset residential amenity. The screening also ensures that the visual impact of the amenity building is limited which is more favourable in terms of policy CSP34.

It is considered that the case put forward by the applicant forms very special circumstances that balances the inappropriateness of the development and its impact on openness. In addition to this it is considered that the impact on visual amenity (which is limited) is countered by the other factors in favour such as the lack of essential amenity facilities, the fact that the site is occupied by once extended family reducing the need for multiple amenity buildings and the specific needs of 1 of the children in the site.

Recommendation

Grant planning permission subject to the following conditions:-

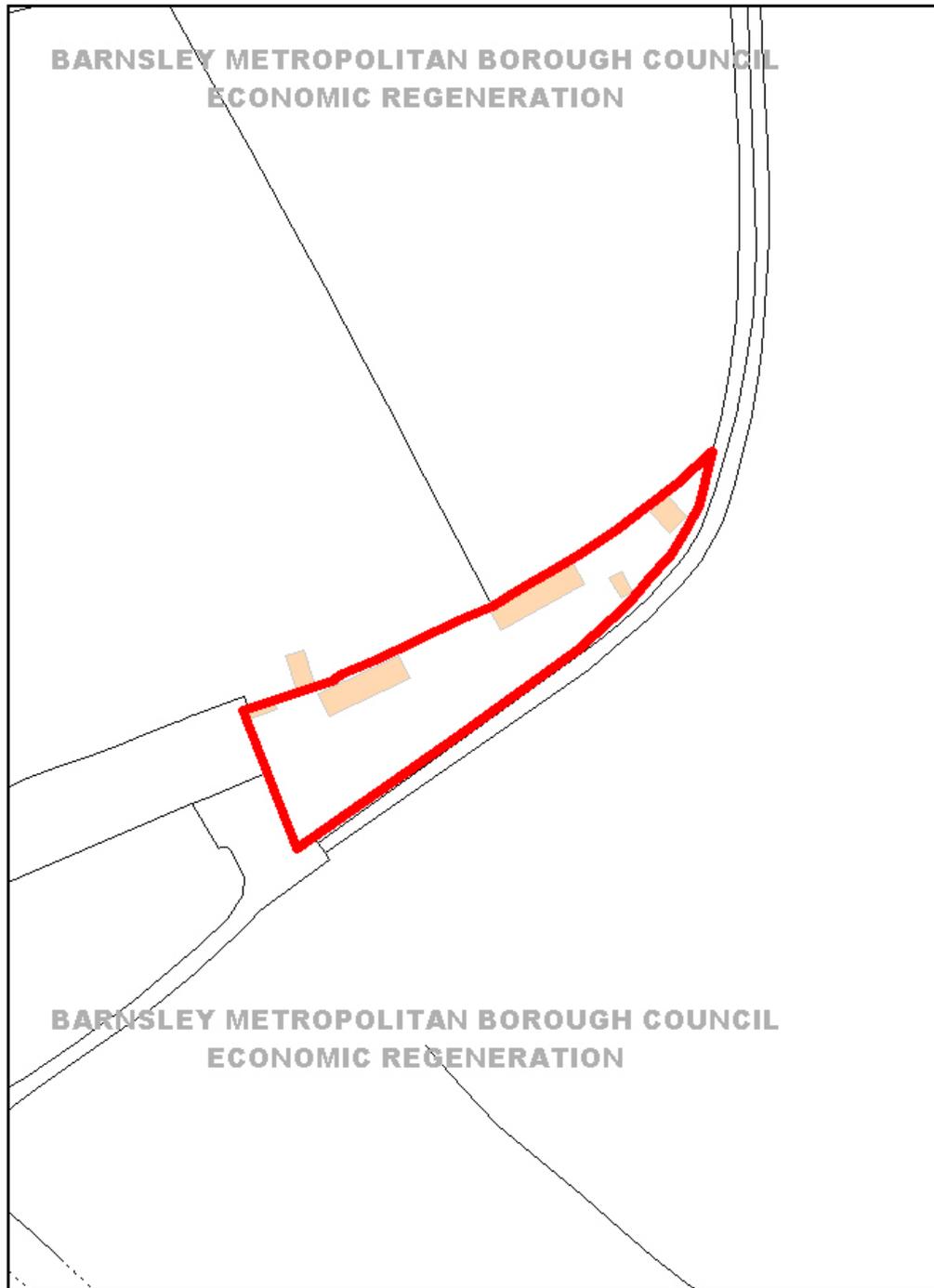
- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby approved shall be carried out strictly in accordance with the plans and specifications as approved unless required by any other conditions in this permission.
Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.
- 3 Upon commencement of development details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the locality and in accordance with Core Strategy Policy CSP 29, Design.
- 4 The existing toilet block shall be removed from the site on completion of the amenity building.
Reason: In the interests of preserving the openness of the Green Belt and in accordance with Core Strategy Policy CSP 34.

PA reference :-

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