
2016/0726

Applicant: Mr Gerald Ayres, C/o Philip Brown Associates

Description: Removal of condition 2 of planning permission 2011/0143 (appeal ref APP/R4408/A/11/2155046) - Change of use of land for siting of 2no residential caravans and associated facilities to allow permanent retention of caravan site.

Site Address: The Caravan Park, Shaw Lane, Carlton, Barnsley, S71 3HJ

One letter of representation has been received

Site Description

The site is located to the north of Shaw Lane in Carlton. The site measures approximately 0.2 hectares and is bordered by allotments to the west and the former canal to the east. To the rear of the site are the playing fields of Carlton ALC. There is a 2m high close boarded fence along the frontage with Shaw Lane within which there is a central gated access. The site has been subdivided and is part laid to hardcore (to the front) and the remainder of the land being grassed and used for the grazing of horses. Levels across the site are generally flat.

At present, there is a single touring caravan parked at the site and the applicant has a second touring caravan situated at a different location.

Planning History

B/05/0142/B – Use of land for the siting of 2 residential caravans

This application was refused on the 27th May 2005 on grounds of being contrary to Green Belt policy and for being prejudicial to highway safety owing to the substandard nature of the access arrangements.

The application was subsequently dismissed at appeal (ref APP/R4408/A/05/1195044) by the Planning Inspectorate. The Inspector dismissed the highways reason for refusal but attached significant weight to the harmful impact that it would have on the openness and character of the Green Belt.

Following the appeal enforcement action was taken against the applicant (Mr Ayres), the requirements of the notice were not complied with and the matter was then escalated to the courts where My Ayres received a 12 month conditional discharge after pleading guilty to breaching the enforcement notice. This was issued on the 24th July 2008.

2011/0143 – Retrospective application for the change of use of land for siting of 2 no. residential caravans and associated facilities

This application was refused on 12th April 2011 on the grounds that the proposed development was contrary to Green Belt policy and that the ad hoc release of individual sites for person of a Gypsy/Traveller status would run counter to the proper planning process, particularly as the proposal is significantly harmful to the openness and visual amenity of the Green Belt.

The applicant submitted an appeal against this refusal which was subsequently allowed by the Planning Inspectorate (ref. APP/R4408/A/11/2155046) and a temporary permission of 4 years was granted. This expired in December 2015. The Inspector acknowledged the

harmful impact that it would have on the openness and character of the Green Belt; but the lack of provision of gypsy sites within the borough and the appellants needs outweighed harm to the Green Belt.

Approval of other permanent Gypsy/Traveller sites across the Borough within the last 5 years

- 2013/0373 – Pleasant View Street, Smithies - Removal of condition 1 and variation of condition 3 of application 2007/0905 – Extension to planning permission to allow permanent residential occupation at the site by the applicant for 2 no. touring caravans and 1 no. amenity building (part retrospective)
- 2014/1286 – Land off Engine Lane, Ferrymore Way, Grimethorpe – Change of use of land to a private single family gypsy/traveller site including the siting of caravans, a utility block and formation of hard standing.
- 2015/0557 – Land off Warren Walk Royston – Retention of residential caravan site for 3 Gypsy families, temporary permission previously approved by 2011/0958
- 2015/0779 – Whitegate stables, Common Road, Brierley – Removal of condition 1 of application 2011/1157 to allow permanent use of site for a gypsy family.
- 2017/0392 – Proposed permanent change of use of land for the siting of a residential caravan, shed, a children’s playhouse and touring caravan and use of stable block as amenity building following expiry of limited period planning permission application reference 2010/0672 – The Stables, Willow Bank, Woodstock Road, Barnsley, S71 1PS

Proposed Development

The applicant is seeking approval for the removal of condition 2 of the permission granted at appeal, to allow the permanent siting of 2 no. residential caravans and associated facilities at the site. Condition 2 stated the following:

“When the premises cease to be occupied by those named in condition 1 above, or at the end of four years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place”

Accompanying the application is a supporting statement provided by the applicant which states that he and his family have lived on the land since 2004. It also acknowledges that the proposal would otherwise represent inappropriate development within the Green Belt but states that the personal needs of the applicant along with the unmet need for gypsy sites within the Borough constitute special circumstances to justify a departure from Green Belt policy.

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 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 its emerging Local Plan to the Secretary of State but it is 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).

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:-

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.

Saved UDP Policies

Designation – Green Belt

NPPF

The National Planning Policy Framework (NPPF) set 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

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

Paragraph 16 of PPTS states that 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.

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

Supplementary Considerations

Ministerial Statement 31st August 2015 – Green Belt Protection and intentional unauthorised development states that intentional unauthorised development should be treated as a material consideration to provide stronger protection for the Green Belt. The Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission.

Barnsley Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015 identified that the overall five year requirement (2014/15 to 2018/19) was for 15 Gypsy and Traveller pitches. This number has been reduced with the approval of permanent permissions as detailed above.

Consultations

Equality & Inclusion – No comments received
Highways DC – No objections raised
Highways Drainage – No objections to proposal
Ward Councillors – No comments received

Representations

The application has been advertised as a departure, a site notice was erected and a press notice published. One letter of representation was received.

The issues raised in the letter were that the applicant did not stick to the decision of the Inspectorate, specifically conditions 1 & 2 regarding occupants of the site, and that after the expiration of the permission the site should have been restored to its original state. The objector comments that the site was not restored and that this was not enforced by the Council.

No evidence has been provided by the objector to support the claim that persons other than Mr Ayres and his dependents have occupied the site or that it has been unoccupied during the four year permission. Whilst it is acknowledged that BMBC has not taken any formal action at the site at present, the applicant has been given the opportunity to put their case forward for a permanent permission in the submission of this application. Dependent on the outcome of this application, and any potential appeal, will determine whether any further action is required.

Assessment

Principle of Development

In establishing the principle of the development the planning history of the site is considered to be of relevance. The first application at the site (Ref. B/05/0142/B) was refused and dismissed at appeal on grounds of being inappropriate development contrary to Green Belt policy. The subsequent application in 2011 (Ref. 2011/0143) was also refused for the same reason. However, a temporary permission of 4 years was granted by the Planning Inspectorate.

All parties acknowledge that 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.

In this case the applicant has put forward the following points in an attempt to demonstrate that, cumulatively, they represent very special circumstances capable of outweighing the harm associated to the Green Belt by inappropriateness:

- Unmet need for Gypsy and Traveller sites in Barnsley MBC
- Accommodation needs of the applicant
- Continuing uncertainty for the applicant with a temporary permission
- No other suitable site for the applicant to go.

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 are other considerations which favour the proposal including the general need for gypsy sites and future provision, the accommodation needs of the present occupiers and their personal circumstances.
- 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.
- Whether there is any additional harm arising from the effect on other relevant policies in the Core Strategy

Effect on Openness & Character of Green Belt

The NPPF states that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence”.

The appeal site lies on the edge of Carlton where the Green Belt serves to maintain a break between Carlton and the communities of Cudworth and Shafton. On the northern side of Shaw Lane, adjacent to the site, is a row of allotments where there is a variety of outbuildings and on the other side is the disused Barnsley Canal, now a narrow strip of woodland followed by a well-used recreational route, the Trans Pennine Trail. To the rear are school playing fields with some recent tree planting immediately adjacent and, to the front, a high timber screen fence.

The site itself is bordered by is bordered by a 2m timber panelled fence with a metal gate to the front. On the site itself is a single caravan although the previous permission allows for two caravans on site. The enclosure of the site and the hard boundary treatment already adversely affects openness to a degree. The siting of the caravan, with the potential for another touring caravan to be on site, introduces structures that are bulkier than those associated with the adjoining allotment uses or the surrounding area. As such there is an additional loss of openness which results in harm to the openness and character of the Green Belt.

The application therefore fails Green Belt policy which amongst other things aims to check the unrestricted sprawl of large built up areas, and assist in safeguarding the countryside from encroachment. The siting of caravans and associated domestic paraphernalia would already be classed as inappropriate development within the Green Belt which, by definition, is harmful to the Green Belt, but there is also harm to the openness of the Green Belt from the structures involved.

Unmet Need

The Inspector noted in the appeal that it was unlikely that any suitable Gypsy & Traveller sites would be available before 2015. At the time of the appeal, there was a shortage of pitches throughout the borough. The scale of the unmet demand for gypsy sites in Barnsley and the timescale associated with delivering sites added considerable weight in favour of the proposal at that time.

Barnsley's Gypsy and Traveller and Travelling Showpeople Accommodation Needs Assessment (GTNA) 2015 identified a five year requirement of 15 pitches between 2014/15 and 2018/19. Subsequent planning approvals and proposed improvements to an existing site have reduced that figure to 7 pitches.

The Council has identified sites to accommodate a total of 11 pitches to meet the need for pitches between 2014/15 and 2021/22 in accordance with Planning Policy for Traveller Sites. This accounts for the identified 5 year requirement of 7 pitches, an additional 3 years requirement to take account of anticipated household formation and a recent planning approval for a single pitch.

Given the updated assessment since the previous appeal, the issue of a lack of alternative sites is therefore not considered to carry any significant weight in this instance. Further information provided states that Mr Ayres has resided – at least temporarily – at his parent's property, which is near to the site. A touring caravan is also sited at this dwelling. This would suggest that the applicant would not become immediately homeless were the application refused.

Personal Circumstances

The supporting statement supplied with the application states that the applicant has lived at the site since 2004; although his lifestyle means that he travels around the country for up to 5 months of the year. The statement does acknowledge that the site was vacant for a brief period in 2008.

The applicant is of nomadic habit and regularly travels around the country in order to work, this was also acknowledged by the planning inspectorate. Mr Ayres has 6 children from previous relationships however; none currently live on site, although one of his children would like to live in separate accommodation on the site.

It has been stated in his supporting statement that the uncertainty over the occupation of the site has affected Mr Ayres' health and wellbeing, which are similar issues that were raised at the appeal. However, no supporting evidence has been provided that demonstrates if these issues have continued since 2011.

Although the potential impact on that an applicants' health and wellbeing are acknowledged, it should be noted that, since the initial appeal decision, there has been a material change in policy with reference to the clarification of Policy E of PPTS. It now clearly 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.

Other Matters

There have been no objections from Highways to the scheme which they have noted has no proposed changes to the access and parking arrangements that were allowed by the Inspector.

The site is sufficient distance away from neighbouring properties not to cause any detriment to residential amenity.

Conclusion

Whilst the applicant's personal circumstances and the current lack of alternative accommodation options within Urban Barnsley are recognised, these circumstances do not clearly outweigh the harm to Green Belt policy so as to establish very special circumstances, as set out in policy E of PPTS.

It is considered that the emerging Local plan proposals provide for the full five year requirement, incorporating the applicants need for a pitch. The application site has been assessed for its suitability as a site allocation in the emerging Local Plan under reference TRAV084 and was rejected as it was not considered possible to develop the site without detrimental impact on visual amenity and openness of the Green Belt.

In this regard all elements of the application are, by definition, inappropriate development in the Green Belt and by virtue of this have an impact on openness which is contrary to 3 of the purposes of why land is allocated for such purposes. The substantial weight attached to this harm is not outweighed by the circumstances put forward by the applicant and as such it is not considered that a permanent permission can be granted.

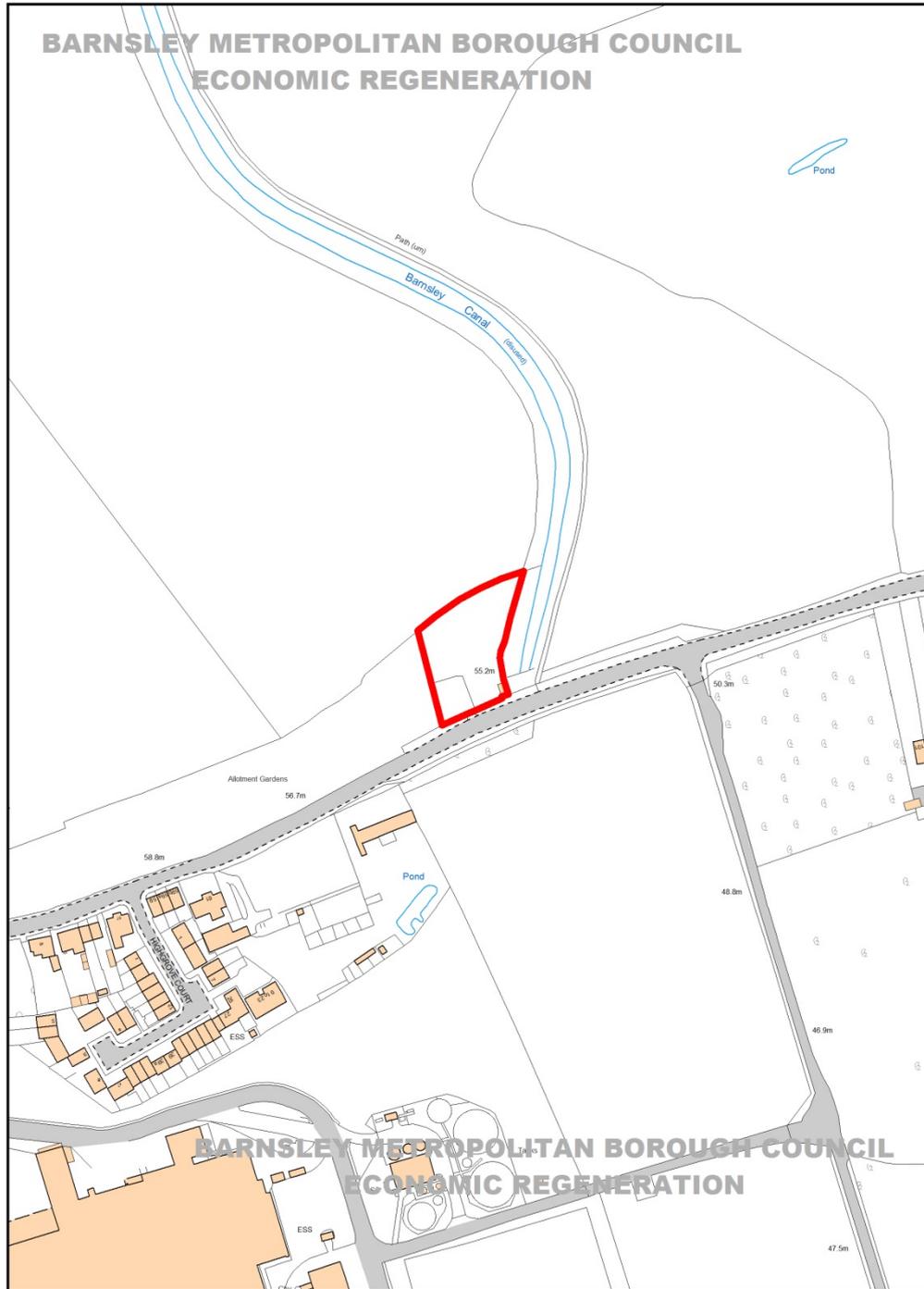
Recommendation

Refuse

- 1 The site lies within the Green Belt on the approved Barnsley Unitary Development Plan. Paragraph 16 of the Planning Policy for Traveller Sites (PPTS), in accordance with the NPPF and Core Strategy Policy CSP34, states that traveller sites (temporary or permanent) in the Green Belt are inappropriate development and would only be permitted in very special circumstances. The PPTS further 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.

In the opinion of the LPA, the details put forward by the applicant are not considered to amount to very special circumstances to justify the granting of planning permission in this instance. On this basis, the proposal is considered contrary to the NPPF, CSP34 and the PPTS, as the proposed permanent retention of the caravan site constitutes inappropriate development contrary to policy and prejudicial to the character and openness of the Green Belt.

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