
2015/0416

Applicant: Mr Geoffrey Rook

Description: Change of use of land to gypsy/traveller site (8 no. pitches) including associated buildings and infrastructure.

Site Address: Land adjacent Burntwood Cottages, Moor Land, Brierley, Barnsley, S72 9HD

The application is referred to the Planning Board as an appeal has been made to the Secretary of State against the Council not giving notice of its decision on the planning application within the target determination period. Councillors are therefore required to give notice to the Planning Inspectorate of what its decision would be if it was still the determining authority.

9 objections have been received from persons including local residents, members of the existing traveller community living on the site and Brierley Town Council. No comments have been received from local Ward Councillors.

Site Description

The site is located to the west of the B6273 Moor Lane in a predominately rural location between Great Houghton and Brierley.

The site is a 0.35ha rectangular shaped area of land that is within the former walled garden area that belonged to the grade II listed Burntwood Hall. The hall is located a short distance to the north east of the site on the opposite side of Moor Lane and is now in use as a care home as a separate entity. Also within this walled area is Victoria Gardens, which is a site containing 8 static caravan pitches that are occupied by a single family from the gypsy and traveller community. In addition 3 houses are located immediately to the south of the walled area (Nos 1-3 Burntwood Cottages). The site has wooded surroundings on three sides (West Haigh Wood). A public footpath through the woodland also begins in this area. Access to the site is via a lay-by situated off the main road.

Proposed Development

The proposal is for a change of use of the remaining land within the former walled area to provide a site containing a further 8 pitches that would be made available for use by the gypsy and traveller community.

A layout plan has been submitted which indicates how the pitches and static caravans would be distributed throughout the site and shows that a new cul-de-sac road would be constructed within a central position within the site to serve the various pitches. In addition 4 utility blocks would be constructed for shared usage. The plan also indicates that a landscaping buffer would be planted around the perimeter of the development. Access via the existing gated entrance to within the walled area that is shared with the existing gypsy and traveller site. A layby exists to the south of the access gate which avoids access being directly off the B6273.

History

B/80/1165/HR - Siting of one residential caravan and one caravan for the storage of gardening tools and materials. Refused permission 28/08/1980.

B/83/0612/HR - Erection of riding stables (outline) – Withdrawn

B/91/0097/HR - Outline for erection of training establishment for the disabled. Refused 04/05/1992.

2008/1691 - Change of Use to a Proposed Gypsy/Traveller Site. Refused by the Council 17/12/2008. Appeal allowed by the Planning Inspectorate 17/08/2009.

2012/1314 - Erection of tea room, putting green/bowling green and stables. Application withdrawn.

2013/0763 - Erection of changing rooms, putting green/bowling green and stables and associated car park. Appeal dismissed 01/10/2014 following non determination of the planning application within the target time period.

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 produced the Publication Consultation Document of the Local Plan. 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 this is still limited by the need to consider any comments received during the consultation and with the knowledge that the Inspector can require changes to the plan.

Local Development Framework Core Strategy

CSP2 'Sustainable Construction

CSP3 'SUDS'

CSP4 'Flood Risk'

CSP8 'The Location of Growth'

CSP18 'Sites for Gypsies, Travellers and Travelling Showpeople'

CSP26 'New Development and Highway Improvement'

CSP29 'Design'

CSP34 'Protection of Green Belt'

CSP36 'Biodiversity and Geodiversity'

Saved UDP Policies

UDP notation: Green Belt

WR10 'Western Rural Green Belt'
GS6 'Extent of the Green Belt'
GS7 and GS8 'Development within the Green Belt'

SPD's

- Designing New Residential Development
- Parking

Other

South Yorkshire Residential Design Guide

Local Plan Publication Draft 2014

Proposed allocation: Site AC46: Sites for Travellers

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.

14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are

out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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

88. 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, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt.

Planning Policy for Traveller sites – DCLG

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

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) 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
- e) that they should determine applications for sites from any travellers and not just those with local connections

However, 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

Consultations

Brierley Town Council – Object to the application due to concerns about the ability for the development to be safely accessed and egressed off the B6273 and residential amenity concerns about the proximity of the site to existing dwellings.

Conservation Officer – No objections.

Drainage – No objections subject to conditions.

Environment Agency – No comments received.

Kirklees Council – No comments received.

Highways – No objections.

Pollution Control – No objections.

Tree Officer – No objections subject to conditions.

Ward Councillors – No comments received.

Representations

The application was publicised by notices in the press and on site and by individual neighbour notification to 10 properties. 9 objections have been received. All but 1 are from the existing traveller community on site. In summary the main concerns expressed are as follows:-

Concerns that the development would disrupt the existing travelling community on site who are well settled.

Concerns that the loss of the gate would undermine safety and security of the residents, including the children who play on the site.

Concerns that the applicant is not from the travelling community and that he might allow people to reside on the site that would cause conflicts with the existing residents.

The residents also state that they have invested a lot of money into developing the site without relying on any assistance from the tax payer.

In addition the resident of No.2 Burntwood Cottages has raised the following issues:-

Noise and disturbance harming enjoyment of home and garden.

Highway safety – Concerns that the development would increase the risk of accidents as a result of the site access is off a national speed limit road and near to a bad bend. It is therefore asserted that the access is unsuitable to accommodate an increase in traffic flows, which may include larger vehicles such as caravans.

Assessment

Principle of Development

The site is located in the Green Belt whereby traveler sites (temporary or permanent) in the Green Belt are inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

In addition the Government has also published a planning policy specifically for traveller sites which is also a material consideration. This requires the following issues to be taken into consideration:-

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) 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*
- e) that they should determine applications for sites from any travellers and not just those with local connections*

In terms of need, current projections are that the 5 year supply requirement is for 18 additional pitches for the period between 2016/17 and 2020/21. On paper therefore the provision of 8 new pitches would make a contribution towards addressing the unmet need. However, the applicant is not a member of the travelling community and as such I would regard the application as speculative. Being speculative no weight can be afforded to the

personal circumstances of the applicant under parts b), c) and e) of the above paragraph of the national policy.

In terms of local policy, CSP18 of the Core Strategy (Sites for Gypsies, Travellers and Travelling Showpeople) states that new sites will be allocated in the Local Plan to meet the shortfall in the provision of permanent sites. Such sites in terms of their broad location will have good access to facilities and be primarily located in urban areas. The site is located in a rural location that is car reliant in order to access facilities. The site therefore does not meet these criteria. Notwithstanding, the Local Plan exercise is demonstrating that there are considerable difficulties identifying suitable sites for new site allocations with willing landowners within the existing urban areas of the Borough. In addition a significant amount of land is required to meet growth targets on new housing and employment development. As a result it is proposed to review the Green Belt boundaries in a number of locations in order to deliver the identified development needs. Taking into account that half of the land within the former walled garden is already in use as a site for travellers the site has been proposed to be allocated as a site for travellers in the Publication version of the Local Plan. Councillors shall be aware however that it is not possible to afford full weight to the Local Plan at the current time for the purposes of determining planning applications as the proposed allocation would also need to withstand examination by a Planning Inspector. As it is acknowledged that there is a degree of conflict with policy CSP18 and as the consultation version of the Local Plan initially proposed that the land continue to form part of the Green Belt it is not a given that the proposed allocation shall be accepted by the appointed Planning Inspector. The application is viewed as being premature therefore.

The appellant contends that unmet need and the opportunity to tidy up the site amount to very special circumstances to justify the development. However this is rejected as the National Policy Statement for Traveller Sites states that unmet local need is unlikely to outweigh harm to the Green Belt and that unmet need should only be addressed through the plan making process and not individual planning applications. In the case of the latter the actions or inactions of landowners regarding maintaining the site in a tidy state is not a reason to justify inappropriate development in the Green Belt. In addition the screening provided by the existing perimeter wall prevents any untidiness from within the site being a problem to the visual amenity of the wider area.

It could be argued that the site has quasi brownfield status as more than half of the area within the walled garden is occupied by the 8 units which make up the existing community of travellers on the site. However the argument that the site was previously developed before this was dismissed by the Planning Inspector when considering the associated appeal. Whilst the appeal for the travellers site was allowed based upon the personal circumstances involved with the applicants family members, the Inspector considered the previous status of the land akin to an allotment and that the concept of openness means a freedom from development. Ultimately that appeal was allowed because of the very special circumstances of the appellants who have suffered from poor health and distress as a result of being flooded in 2007 at the previous site in Low Valley; such very special circumstances that do not apply to current application.

Visual Amenity

The plans show that the site would be developed in a very similar way to the existing traveller site within the former walled area with a mixture of static caravans and amenity blocks. The amenity blocks would be single storey buildings faced with brick, natural slate covered pitched roofs and timber windows. Whilst I would regard the plans sufficient for the purposes of CSP29 the development would harm the openness of land within the Green Belt and is therefore an inappropriate form of development when assessed against the existing land use planning policy designation affecting the site.

Residential Amenity

I am satisfied that sufficient land has been allocated to each plot so that the plans would not lead to the overdevelopment of the site. In addition the plans include the construction of amenity blocks to provide toilet and bathroom facilities to the occupants of the site.

In the objection letters concerns have been stated that the development would undermine privacy for existing residents and lead to increased noise and disturbance. However the plans include the provision of a 1.8m closed boarded fence along the full length of the boundary between the site and the existing travellers site which would be sufficient to afford a high level of mutual privacy between the two sites. Also the landscaping buffer and existing wall would afford privacy to the residents located in the three cottages located to the south of the site.

As the site is intended to be occupied for residential purposes there is nothing to indicate that noise and disturbance levels would high or sufficient to materially harm the living conditions of existing properties. Whilst being in rural area, there was already activity from the 3 existing cottages prior to the existing traveller site coming into use. Also background noise levels will be affected by large numbers of vehicles passing the site on the B6273. No objections have been received from Pollution Control Officers accordingly.

Highway Safety

It is acknowledged that the site is served off a busy classified road in a location near to a bend affecting forward visibility where the national speed limit is applicable. However the existing layby provides a refuge for vehicles to pull off the road before entering into the site and Highways do not consider that there is a strong enough case for refusing the application on highway safety grounds taking into account the limited amount of additional development proposed.

The development would potentially pose difficulties during the construction phase. However Highways are of the view that further information could be insisted upon via a condition requiring a construction method statement prior to the commencement of any development.

Drainage

The site does not benefit from a connection to the existing public sewer network. Foul drainage is proposed to be handled via the construction of a package treatment plant. In addition soakaways are proposed as a means of disposing surface water. Both measures are acceptable to the Council's drainage section in principle and as such it would have been possible to have dealt with the matter via a suitably worded condition.

Trees

A variety of vegetation would need to be cleared to accommodate the development. However none of this is sufficient to warrant special protection and could be compensated for by replacement planting. Also the plans commit to retaining the existing vegetation located around the site boundaries. Loss of vegetation is not considered a reason worthy of refusal therefore.

Conclusion

In summary the site forms part of the Green Belt in the existing saved UDP policies. The development would harm openness and its typology does not fall into any of the categories of development listed in paragraph 89 or 90 which are exempt from being classed as inappropriate. Also as the applicant is not from the gypsy and traveller community there are no particular personal circumstances to take into consideration in the context of the National Policy Statement for traveller sites. Furthermore the National Policy Statement states that unmet local need is unlikely to outweigh harm to the Green Belt.

The site is provisionally allocated as a site for travellers in the emerging Local Plan. However proposed allocations on sites within the Green Belt must withstand examination by the Planning Inspector appointed on behalf of the Secretary of State before such policies form part of the Development Plan for the Borough. Therefore decision making at the current time should be based upon the existing Green Belt land use planning policy designation affecting the site whereby the relevant policies are saved UDP policies GS6, CSP34 and the NPPF. As has been established the form of development proposed is inappropriate and would harm the openness of the Green Belt.

The other implications of the development have been considered including visual and residential amenity, highway safety, drainage and trees. However it is considered that there are no further issues which would warrant the application being refused planning permission.

Recommendation

Members resolve that the Council provides notice to the Planning Inspectorate that its decision would be to refuse planning permission at the present time for the following reason:-

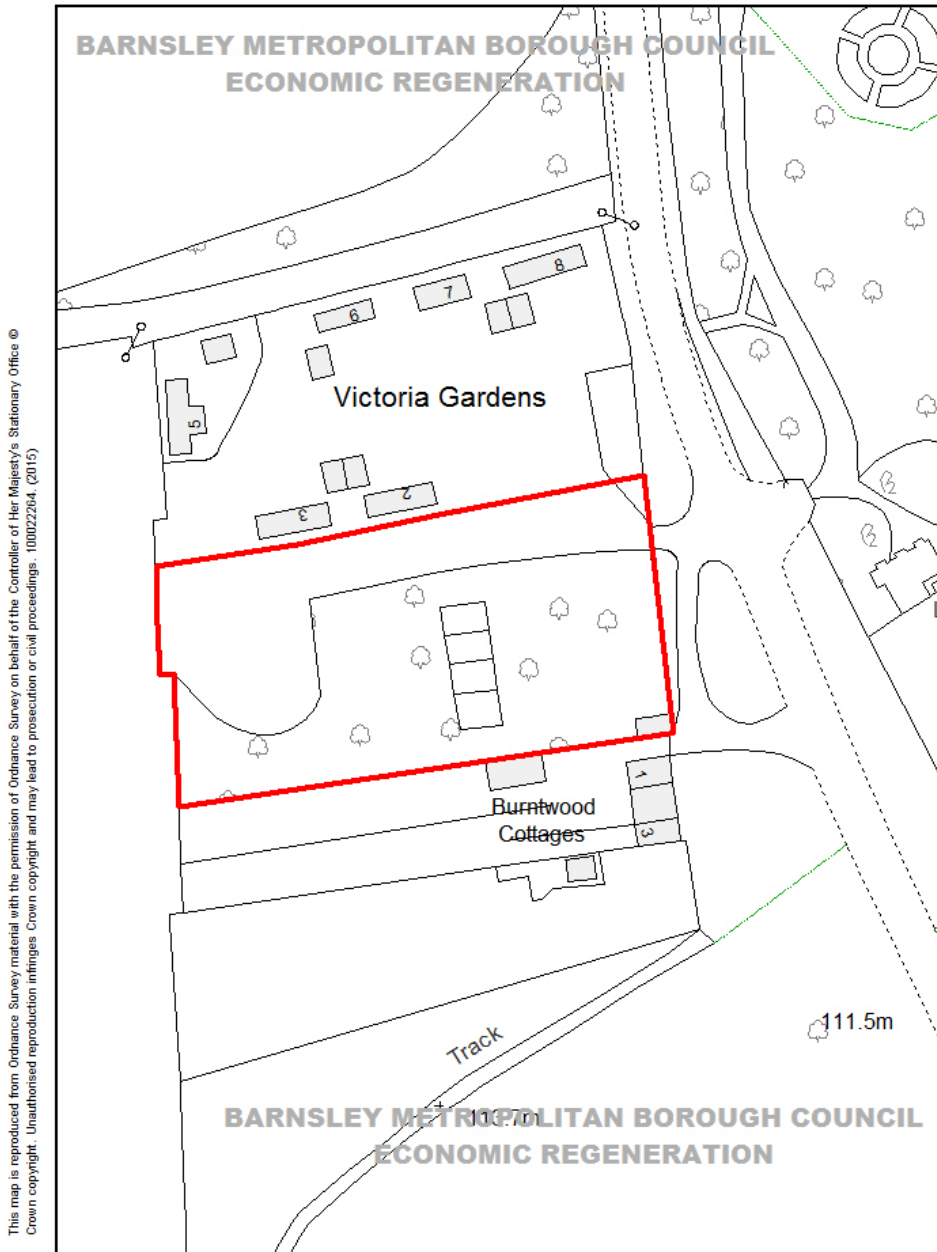
The proposed development is for a form of inappropriate development which would harm the openness of the Green Belt. In the opinion of the Local Planning Authority therefore the development would be contrary to the aims of the National Planning Policy Framework and the Planning Policy for Traveller sites, saved UDP policy GS6 'Extent of the Green Belt' and CSP34 'Protection of the Green Belt'.

Refuse

- 1 The proposed development is for a form of inappropriate development which would harm the openness of the Green Belt. In the opinion of the Local Planning Authority therefore the development would be contrary to the aims of the National Planning Policy Framework and the Planning Policy for Traveller sites, saved UDP policy GS6 'Extent of the Green Belt' and CSP34 'Protection of the Green Belt'.

PA Reference:-

2015/0416



BARNESLEY MBC - Economic Regeneration



Scale 1: -----