

INQUIRY STATEMENT OF CASE OF BOROUGH OF BROXBOURNE
(THE LOCAL PLANNING AUTHORITY)

Appeal by Mr Billy Joe Saunders

Against the refusal to grant planning permission (application reference 07/23/0119/F) for a retrospective change of use of land to residential, for members of the gypsy traveller community for 7no. static caravans, 6no. touring caravans, parking for 12 cars, hardstanding and associated development

Relating to Land south of Cock Lane, Hoddesdon, Hertfordshire, EN11

PLANNING INSPECTORATE REFERENCE:

APP/W1905/W/23/3327012

LOCAL PLANNING AUTHORITY REFERENCES:

07/23/0119/F

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1. INTRODUCTION

1.1. The Decision Notice giving rise to this appeal was issued by Broxbourne Borough Council on 25th May 2023.

1.2. An application giving rise to this s78 was submitted in March 2023 to change the use of the land to - residential, for members of the Gypsy Traveller community for 7no. static caravans 6no., touring caravans, parking for 12 cars, hardstanding, and associated development. This application (reference 07/23/0119/F) was refused on 25 May 2023 for the following reasons:

1. The development does not safeguard the Green Belt countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt in this case. Therefore, the development is contrary to Policy GB1 of the Broxbourne Local Plan (2018 - 2033), Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework (July 2021).

2. There are no footways leading to the site, and the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway, which represents a highway safety concern. The development fails to ensure that the safety of all movement corridor users is not compromised, therefore is contrary to Policy TM2 of the Broxbourne Local Plan (2018 - 2033) and the aims and objectives of the National Planning Policy Framework (July 2021).

The Council do not consider that planning conditions could overcome the objections to the development.

1.3 The appeal is being dealt with by way of public inquiry.

2. LOCATION AND DESCRIPTION

- 2.1 Woodland Stables is located to the south of Cock Lane, located to the west of Broxbourne. The site is accessed via a single tarmacked lane, which is gated at its point of connection with Cock Lane. The site is within the Green Belt and in close proximity to Chestnut Grove Local Wildlife Site (72/034) to north and east.
- 2.2 The site contains seven static caravans and associated hardstanding accessed via the tarmacked lane to the south of Cock Lane. To the west of the site location plan red line boundary, associated with the site though not subject of this application are livery stables, granted permission for a change of use from stables to livery yard in 2008 (reference 7/596/08). There are ten stables with adjoining paddocks.
- 2.3 The application site falls within 250 metre buffer around disused landfill site. The site also falls within a 100m buffer around a power line; however, the development is of low overall height level and there are no concerns raised. The site falls entirely within Flood Zone 1, which has a low probability of flooding.

3 RELEVANT PLANNING HISTORY

- 3.1 Conversion of existing barn to residential (one bedroom) dwelling and extension of barn to form a cattery (planning ref: 07/17/0350/F). Approved 20 April 2018.
- 3.2 Replace existing residential mobile home with a single storey log cabin on existing footprint (planning ref: 07/16/1034/F). Refused 10 November 2016.
- 3.3 Continuation of temporary planning permission for existing use of mobile home as a residential dwelling in conjunction with horse livery and cattery/rescue centre for a period of 3 years (planning ref: 07/14/0674/F). Approved 12 September 2014.
- 3.4 Temporary planning permission for existing use of mobile home as a residential dwelling in conjunction with horse livery and cattery/rescue centre (ref: 07/13/0465/F). Approved 29 July 2013.
- 3.5 Certificate of lawfulness for an existing use of mobile home as a residential dwelling (ref: 07/11/0981/LDC). Refused 10 February 2012), appeal dismissed 13 May 2013.
- 3.6 Change of use of stables to livery yard (ref: 7/0596/08/F/HOD). Approved 6 October 2008.
- 3.7 Agricultural workers dwelling (ref: 7/645/1983). Refused 1993.

4 RELEVANT PLANNING POLICIES

4.1 The Borough of Broxbourne Local Plan (2018-2033) is a material consideration and, as such, is a relevant planning document in this appeal. The relevant Policies within this document are:

GB1 - Green Belt

GT1 - Gypsy and Traveller Sites

DSC1 - General Design Principles

NEB1 - General Strategy for Biodiversity

NEB2 - Wildlife Sites

NEB5 - Ancient Woodland, Protected Trees and Hedgerows

EQ1 - Residential and Environmental Quality

EQ3 - Lighting

TM2 - Transport and New Developments

TM3 - Access and Servicing

TM4 - Electrical Vehicle Charging Points

TM5 - Parking Guidelines

4.2 The National Planning Policy Framework (NPPF) is also a material consideration in this appeal and underpins the aims and objectives of the Local Plan Policies, identified in paragraph 4.1 above. As such, these policies are considered to comply with the policies and principles of the NPPF and the National Planning Policy Guidance.

4.3 The Borough Wide Supplementary Planning Guidance (SPG) (adopted 2004, updated 2013) is also relevant in this case as it provides design guidance for all forms of development. Also material are the Borough of Broxbourne Gypsy and Traveller Accommodation Assessment (April 2017), the Planning Inspectorate Report on the Examination of the Broxbourne Local Plan (14 April 2020) and the Broxbourne Waste Supplementary Planning Guidance (August 2019).

5 THE COUNCIL'S CASE

- 5.1 The application sought full planning permission for: retrospective planning permission for change of use of land to residential, for members of the Gypsy Traveller community for 7no. static caravans 6no. touring caravans, parking for 12 cars, hardstanding, and associated development.
- 5.2 Regarding the principal of development. Paragraph 22 of the Planning Policy for Traveller Sites (PPTS) states when determining planning applications for traveller sites, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Furthermore, paragraph 23 states applications should be assessed and determined in accordance with the presumption in favour of sustainable development, and the application of specific policies in the National Planning Policy Framework (NPPF) in conjunction with the PPTS. Paragraph 16.2 of The Broxbourne Local Plan states planning applications for new pitches will be considered on their merits.
- 5.3 The application site lies wholly within the Green Belt. Paragraph 16 (Policy E) of the PPTS 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.
- 5.4 Paragraph 147 of the National Planning Policy Framework states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In order to outweigh the harm to the Green Belt, very special circumstances must be considered. The submitted Design and Access Statement declares: the development would be for family and friends that don't have anywhere else to live. The proposed development would also be classed as affordable housing.

The Application's claim for very special circumstances (VSC) included:

- The Applicant believes the Gypsy and Traveller Accommodation Assessment (GTAA) is out of date.
- There is a lack of available sites in the district, county, this part of the country and the UK, and that undersupply of sites in the area carries significant weight.
- The lack of a five- year supply of land for Gypsy sites which adds significant weight to a planning application.
- The need of the families to have a place to live, so they can access regular, consistent health care and to give support to each other from a culturally appropriate setting.
- The need of the families to have a place to live, so they can access adequate education services.
- The primacy of the child, must be a paramount consideration when making any decision that will have an impact on the lives of children.
- The family qualify for Gypsy status.

5.5 The Borough of Broxbourne Gypsy and Traveller Accommodation Assessment (April 2017) supporting the adopted Local Plan 2018-2033 provided a robust assessment of current and future need for Gypsy, Traveller and Travelling Show people accommodation in the Borough of Broxbourne. The report concluded there is a need for 22 additional pitches for households that meet the planning definition. The Local Plan and Policy GT1 are up to date (it is less than 5 years since adoption in June 2020). The Council has and are meeting needs through Local Plan Policy GT1.

5.6 Gypsy and Traveller sites at Hertford Road, St James' Road and Wharf Road have all been removed from the Green Belt in order to enable the effective implementation of Policy GT1, which states The Council will work with the travelling communities to allocate sites as follows as shown on the Policies Map:

1. Expansion of Hertford Road where additional appropriate needs cannot be accommodated within the existing site boundaries;

2. Accommodation of new pitches within the existing St James' Road site;
3. Authorised site at Wharf Road to accommodate the appropriate needs of the Wharf Road Community.

5.7 These sites are allocated for the specific needs of the resident travelling communities to which they relate and the future expansion of those communities through new household formation within those communities. The Local Plan does not provide expressly for gypsy and traveller needs arising from outside the Borough.

5.8 The need of the families to have a place to live, so they can access regular, consistent health care and to give support to each other from a culturally appropriate setting is appreciated. The site is accessed via Cock Lane where the national speed limit (60mph) applies with no street lighting, no footpaths exist and there is very limited grass verge to walk on. The site is located approximately 1.3km from the nearest primary school, the nearest health care providers and amenities are located in Broxbourne or Hoddesdon Town therefore realistically accessed safely by car only, therefore the site is not considered conveniently close to healthcare, schools and amenities without the use of a car.

5.9 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. No evidence was submitted by the Applicant to confirm all families or children on site occupying the plots qualify for Gypsy status. Supporting evidence has been supplied regarding a vulnerable family member and three school age children living on site, which gives some weight to very special circumstances.

5.10 Change of use of this land to residential, for members of the Gypsy Traveller community for 7no. static caravans 6no. touring caravans, parking for 12 cars, hardstanding, and associated development would not be visible from Cock Lane and would be heavily screened by the surrounding trees/hedges. The visual impact on the Green Belt is limited and quite local to the site. That said once the site is accessed the large scale entrance gates with stonework pillars / wall, 1.8m fence panels and expanse

of hardstanding is incongruous with the otherwise open green belt landscape and should be restricted by condition from expansion to comply with paragraph 26 of the PPTS should it be minded to allow this Appeal. This would ensure the rural character of the locality is maintained.

5.11 Local Plan Policy TM2 requires development proposals must ensure that the safety of all movement corridor users is not compromised. Hertfordshire County Council as Highway Authority were consulted and raise an objection due to the following concerns regarding the sustainability of the site in transport terms.

5.12 Hertfordshire County Council as Highway Authority were consulted and recommended permission be refused on grounds of sustainability. The Highway Authority are concerned the development offers no sustainable travel opportunities, contrary to the NPPF and HCC Local Transport Plan Policies 1, 2 and 5. The closest bus stop and local amenities and facilities are at Broxbourne High Road at a distance which exceeds the Chartered Institute Highways Transportation (CIHT) 'Planning for Walking' which states that 'Walkable Neighbourhoods' must be considered when land use planning for pedestrians, whereby a typical catchment area will be 800m.

5.13 The Highway Authority state there are no footways leading to the site, and the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway for the full length, which represents a highway safety concern. As the site location is only safely accessible by car, this is contrary to the HCC declared Climate Emergency and the DfT's Decarbonisation Plans. The HCC Corporate Plan includes the key principles of 'A cleaner and greener environment' and 'Sustainable and responsible growth'. Based on the current application details, the site does not fulfil these requirements.

5.14 The application was recommended for refusal by the case officer and a final decision to refuse the application was made under delegated powers, between the Development Management Service Manager and the Chairman of the Planning and Regulatory committee for the reasons stated above in section 1.

6. COMMENTS ON THE APPELLANTS GROUNDS OF APPEAL

6.1 As set out in the case officers report, the appeal proposal is also contrary to paragraph 16 of the national Planning Policy for Gypsies and Travellers, which states that

“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.”

6.2 The Appellant has identified five grounds of objection. None of these grounds are contested. However, for the avoidance of doubt, a response to each of these are listed below (the Appellant’s grounds of appeal are shown in **bold**):

6.3 **Need (national, regional, local)**. The Council’s Gypsy and Traveller Accommodation Needs Assessment was undertaken in 2017 and it is not proposed to update it. It is quite likely that the needs position has changed since 2017. However, the Local Plan is up to date and its position is clear. The Council will review any evidence of need submitted by the Appellant but are not proposing to submit its own updated assessment of need.

6.4 **Lack of available, suitable, acceptable affordable sites**. The Council agrees that there are currently no sites suitable for gypsies and travellers aside from those identified in the Local Plan and previously removed from the Green Belt for that purpose.

6.5 **Lack of five year supply of gypsy and traveller pitches**. Local Plan policy GT1 states that *“These sites are allocated for the specific needs of the resident travelling communities to which they relate and the future expansion of those communities through new household formation within those communities. They are not to meet the needs of extended family members not currently resident within the Borough of Broxbourne.”* Therefore, the Council is not planning for any supply of additional pitches to meet needs other than those arising from new household formation at the existing communities.

- 6.6 Failure of policy. The LPA do not currently have a policy capable of delivering the required amount of pitches.** The policy is capable of delivering the amount of pitches required to meet the needs of extended family members at existing sites allocated in the Local Plan, but not any other needs arising.
- 6.7 The likely location of additional gypsy pitches in the district.** The Appellant has not expanded on this sentence in their grounds of appeal but this appears to be related to ground 2. As previously stated, the Council agrees that there are currently no sites suitable for gypsies and travellers aside from those identified in the Local Plan and previously removed from the Green Belt for the purpose of meeting the needs of extended family members only.
- 6.8 The Local Plan was adopted in June 2020 and is therefore up to date. Provision to meet the needs set out in the 2017 Gypsy and Traveller Needs Assessment was made at the four locations identified in Local Plan Policy GT1: Gypsy and Traveller Sites. These sites were removed from Green Belt through the Local Plan for the purposes set out in the policy. The appeal proposal falls outside the scope of Policy GT1 and is contrary to the up to date Local Plan.

7. CONCLUSION

7.1 In relation to the ground a) and Section 78 appeals In conclusion, for the reasons detailed above, the Council considers the development conflicts with Policies GB1 and TM2 of The Broxbourne Local Plan 2018-2033, adopted June 2020, Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework. In light of the above appraisal, the Council maintains that the reasons for the refusal are sound planning grounds, as supported within this statement. The Inspector is respectfully asked to support the Council's adopted policies and those relevant at the time of the application that are also underpinned by the NPPF, by dismissing this appeal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

7.2 Without prejudice to the above, in the event that the Inspector determines that planning permission should be granted, they are requested to consider the imposition of the conditions set out in Section 8 below.

8 SUGGESTED CONDITIONS

8.1 Should the Inspector be minded to allow the appeal and grant planning permission, it is requested that the following conditions are imposed:

1. The development hereby permitted shall be carried out and completed in accordance with the proposals contained in the application and drawing numbers BP-01-2023, LP-01-2023, LP-02-2023, T1-BFSGC-2018 and SC-01-2018 submitted therewith.

Reason - To ensure the development is carried out as permitted.

2. The land indicated on the drawings for the parking and turning of vehicles shall not be used for any other purpose, and shall be kept available for these purposes thereafter.

Reason - To ensure adequate provision of off-street parking and turning space, in the interests of road safety and the appearance and character of the area.

3. In the event contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing with the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority, prior to the first occupancy.

Reason - To ensure that risks from land contamination to the future users of the land and neighboring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4. All parking spaces within the development, including communal parking spaces shall have active Electric Vehicle charging points, or passive charging points where it can be demonstrated that provision of active charging points is not reasonable.

Reason - To safeguard the amenities of the local area and to ensure that the development sustains compliance with EU limits and national objectives for air pollutants.

5. All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 8.00am-6.00pm Monday-Friday, 8.00am-1.00pm Saturday, and at no time during Sundays and Public/Bank Holidays.

Reason - In the interests of the amenities of noise sensitive properties.

6. Details of facilities for the storage and removal of refuse and recyclables from the premises shall be submitted to the Local Planning Authority for approval in writing. The agreed facilities shall be provided prior to the first occupation of the development and be retained available for use thereafter.

Reason - In the interests of amenity in accordance with Policy EQ1 and Borough-Wide Waste Supplementary Planning Guidance (adopted August 2019).

Informative:

1: Electric vehicle charging point specification:

EV ready domestic installation;

Cable and circuitry ratings should be of adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A.

- A separate dedicated circuit protected by an RCBO should be provided from the main distribution board, to a suitably enclosed termination point within a garage, or an accessible enclosed termination point for future connection to an external charge point;

- The electrical circuit shall comply with the Electrical requirements of BS7671:2018 + A1:2020 as well as confirm to the IET code of practice on Electric Vehicle Charging Equipment Installation 4th Edition 2020- ISBN: 9781839531804
- If installed in a garage all conductive surfaces should be protected by supplementary protective equipotential bonding. For vehicle connecting points installed such that the vehicle can only be charged within the building, e.g. within a garage with a (non-extended) tethered lead, the PME earth may be used. For external installations the risk assessment outlined in the IET code of practise must be adopted and may require an additional earth stake or mat for the EV charging circuit. This should be installed as part of the EV ready installation to avoid significant on cost later.

Additional guidance on charge point installation is available from the Office of Low Emission Vehicles (www.gov.uk).

Louise Hart

Senior Planning Officer

For and on behalf of Broxbourne Borough Council

September 2023