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# Appeal Decision

Hearing held on 8 March 2022

Site visit made on 8 March 2022

**by R C Kirby BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> May 2022**

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**Appeal Ref: APP/L3245/W/20/3253805**

**Land off Beamish Lane, Albrighton, Shropshire WV7 3AG (382900 304267)**

- 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 John Price against the decision of Shropshire Council.
  - The application Ref 19/03152/FUL, dated 12 July 2019, was refused by notice dated 6 December 2019.
  - The development proposed is the use of land for the stationing of caravans for residential purposes.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The appellant has confirmed that the intended occupiers of the site are Romany Gypsies. Both parties acknowledge that the occupiers of the site would meet the Planning policy for traveller sites (PPTS) Glossary definition of "gypsies and travellers", and that the PPTS is relevant policy in this case.

## Main Issues

3. The appeal site is located within the countryside, outside of any defined settlement boundary and within the West Midlands Green Belt.
4. There is no dispute that in accordance with Policy E of the PPTS, the development is of a form which constitutes inappropriate development in the Green Belt. Given the evidence before me in respect of the location of the site and the type of development, I also conclude that the appeal relates to inappropriate development in the Green Belt as described in Chapter 13 of the National Planning Policy Framework (Framework).
5. Taking into account the above, the main issues in this case are:
  - the effect of the proposal on the openness of the Green Belt and its purposes;
  - whether the appeal site is suitably located for the proposal having regard to its relationship to services and facilities and the nearest settlement, and
  - whether the harm to the Green Belt by reason of inappropriateness, loss of openness and conflict with the purposes of including land within it, and any other harm, is clearly outweighed by other considerations so as to amount to

the very special circumstances necessary to justify the development in the Green Belt.

## **Reasons**

### *Planning Policy Context*

6. The appellant submits that the policies referred to within the Council's decision notice are out of date and that this therefore engages paragraph 11 d) of the Framework. Just because the policies pre-date the Framework or include different criteria to the Framework does not necessarily make them out of date. There is no requirement within national planning policy that requires development plan policies to repeat such policy verbatim. Indeed paragraph 28 of the Framework supports local planning authorities to use non-strategic policies, such as those relied on by the Council, which are detailed for specific areas, neighbourhoods or types of development.
7. Having regard to the Court of Appeal's judgment in *Bramshill v SSHCLG [2021] EWCA Civ 320*, I consider that the most important policies in this case have the same basic objectives as national planning policy including protecting Green Belt land and very strictly limiting new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. They therefore carry full weight in my assessment of this case.

### *Openness and Purposes of the Green Belt*

8. The appeal site is accessed off Beamish Lane through an existing gate and comprises an area of hardstanding. Outside of the appeal site, but within the same ownership is a 'L' shaped stable block. To the south of the appeal site is a large grassed area. There is also a large area of hardstanding to the front of the stables. The boundaries of the appellant's land have a mixture of hedgerow, trees and fencing along them, with the hedgerow along the lane, largely screening the appeal site.
9. The Framework establishes 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.
10. Paragraph 138 of the Framework establishes that Green Belt serves five purposes, including to assist in safeguarding the countryside from encroachment.
11. As set out in the Planning Practice Guidance, case law establishes that openness of the Green Belt is capable of having both spatial and visual aspects. In other words, the visual impact of the development may be relevant, as could its volume. Although the appeal site is well screened by vegetation from the road and the proposal would be glimpsed through the access to the site, an absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result.
12. Moreover, the proposal would introduce caravans and a utility/day room on the site on an area where there is currently no buildings or structures. Openness would therefore be reduced through not only the siting of caravans and the building accommodating the utility/day room, but also through parked vehicles and domestic paraphernalia associated with the proposed residential use. The

reduction in the amount of hardstanding on the site would not suitably mitigate this harm.

13. Although the effect on openness would be localised and limited, and the visual implications would be mitigated over time by the existing and proposed landscaping, openness of the Green Belt would be reduced. Furthermore, by occupying a part of the site where there is currently no caravans or building, the proposed use would encroach into the countryside. This would therefore be contrary to one of the five purposes of the Green Belt. These are matters which I am required to give substantial weight. As such the proposal conflicts with Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (CS) which seeks to control development in the Green Belt in line with Government Policy and Shropshire Council's Site Allocations and Management of Development Plan (SAMDev) Policy MD6 which requires, amongst other matters that development does not conflict with the purposes of the Green Belt.

#### *Whether the Appeal Site is Suitably Located*

14. The appeal site is located outside of the settlement boundary for Albrighton and for planning policy purposes is located within the countryside. It is accessed off Beamish Lane, a narrow road with no pavement or street lighting. The settlement of Albrighton is located on the opposite side of the A41 Albrighton bypass which is a dual carriageway covered by the national speed limit.
15. The appeal site has a small stable block upon it with fields beyond. There are open fields opposite and adjacent with large houses set in extensive grounds and a preparatory school nearby. The character and appearance of this area of countryside is largely open and undeveloped.
16. Within the open countryside the PPTS establishes that new traveller site development should be strictly limited that is away from existing settlements or outside areas allocated in the development plan. In this respect, and whilst accepting that the distance to the edge of the settlement is approximately 750 metres<sup>1</sup>, the presence of the bypass, railway line, intervening fields and residential properties set in large grounds, means that the appeal site is visually and physically separate from, and away from the settlement of Albrighton. In the event that the proposed safeguarded land for development beyond 2036 was developed, the appeal site would remain away from the settlement because of the presence of the transport infrastructure.
17. The centre of Albrighton is approximately 2 kilometres away from the appeal site where services and facilities including shops, doctors' surgery and a primary school can be found. Bus and rail services also operate within the town. The closest bus stop to the appeal site is described as being approximately 800 metres distant, located by the Cedars in Albrighton. Reference is made to the railway station being 1.3 kilometres from the appeal site, from where trains to Telford, Shrewsbury, Wolverhampton and Birmingham can be caught. Codsall is approximately 4.7 kilometres distant from the appeal site where there is a railway station, secondary school and other services and facilities. From the appeal site, this settlement can be accessed largely by country lanes.

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<sup>1</sup> As measured by the appellant

18. Although 'as the crow flies' the distances to nearby services are not excessive, given the local highway conditions, including having to cross the wide dual carriageway with fast moving traffic to get to Albrighton and the narrow intervening roads with no street lighting or dedicated pedestrian facilities to both settlements, there would be a high probability that the intended future occupiers of the site would drive to these settlements rather than walk or cycle because of the unattractive journey from the site to them. There would thus be a high reliance on a private vehicle to access day-to-day services. For those that did not have access to such a vehicle, the services and facilities in Albrighton and beyond would not be reasonably accessible.
19. I acknowledge that opportunities to maximise sustainable transport solutions varies between urban and rural areas and that the PPTS does not make specific reference requiring that sites should be located where sustainable transport opportunities can be taken up. However, the PPTS makes it clear that local planning authorities should ensure that traveller sites are sustainable including environmentally so. Modes of travel and reducing the need to travel by private car fall within this 'umbrella'.
20. Although the appellant and his son travel to the site to care for the horses upon it a couple of times a day, it is likely that the number of journeys that the residential occupancy of the site would generate would be significantly more, particularly when considering journeys to access shops, education and healthcare, as well as deliveries to the site.
21. I note that the Council has granted planning permission for gypsy and traveller pitches at the Hawthorns on the opposite side of the bypass to the appeal site, however whilst it is likely that occupiers of this site have a high dependency on a private vehicle to access day to day services, this site is more closely related to development within the settlement of Albrighton, and not separated from it by transport infrastructure. This site is thus not directly comparable to the appeal site and does not provide justification for the appeal proposal.
22. Given the above I conclude that the appeal site is not suitably located for the proposal because of the conflict with CS Policy CS12 which seeks to ensure that gypsy and traveller sites are reasonably accessible to services and facilities, amongst other matters. Moreover, the high dependency on the private motor vehicle would conflict with the environmental role of sustainability.
23. The Council has referred to CS Policy CS6 within its refusal reason. Given the scale of the proposal I find that it would be unlikely to generate significant levels of traffic. The design of the caravans could incorporate the sustainable design principles advocated by this policy. Accordingly, there would be no conflict with this policy. Similarly, I find that there would be no conflict with SAMDev Policy MD2 which also relates to sustainable design.
24. Although SAMDev Policy MD7a seeks to manage housing development in the countryside, the reference to dwelling house and market dwelling throughout the policy indicates that it is not a policy that is relevant to the proposal before me. As the appeal site is located outside of the development boundary for Albrighton, Policy S1 of the SAMDev is also not relevant.

### *Other Considerations*

#### *Need For and Provision of Sites*

25. The Council undertook a Gypsy and Traveller Accommodation Assessment (GTAA) in 2017 which was updated in 2019. The 2019 update considered the accommodation needs of Gypsies and Travellers meeting the definition set out in Annexe 1 of the PPTS and also settled Travellers who may not meet the definition but identify as a Gypsy or Traveller. It covers the period 2016/2017 to 2037/38.
26. This GTAA update, the methodology and findings of which is challenged, indicates that there is a need culturally for 113 pitches over the plan period to 2037/2038 and a PPTS Gypsy and Traveller need of 43 pitches. Given the natural turnover of pitches, the Council has calculated that the supply of pitches would exceed the demand for pitches over the plan period and therefore indicates that there is not a need for new gypsy and traveller pitches.
27. Notwithstanding this, the GTAA 2019 update identifies that if turnover is not accounted for, that there is a 5 year authorised pitch shortfall from 2016/17 to 2020/21 of 24. It also accepts that even taking into account turnover that there will still be some need for the provision of small sites to address any arising needs of Gypsy and Traveller families.
28. Whilst noting both parties' cases in this regard, it is clear that at the time of the Hearing, there were 14 families on the Council's waiting list, not including the intended future occupiers, and 6 pitches available on the Council's site at Craven Arms. There was no availability at any of the Council's other sites, or on private sites. So, at this time the supply of available sites does not appear to cater for the needs of gypsy and travellers in the area. The proposal would assist in making up the shortfall in sites at this time on a small site which in part, addresses the arising need of Gypsy and Traveller families. I attach significant weight to this matter.

#### *Alternative Sites*

29. Other than the Craven Arms site, which is occupied by an extended family, all of the other Council owned sites are full. The Craven Arms site is some distance from the appeal site where the appellant keeps his horses and the twice daily journey to check on their welfare would take a considerable amount of travel time for the intended future occupiers. It is also some distance from the appellant's home and other family members who provide support and help with childcare.
30. Within Telford and Wrekin, the Council acknowledge that there is little capacity on permanent sites but point to a transit site within Telford which has capacity. Whilst this would assist in providing a pitch for the appellant's son and his family, it is likely that the pitch could only be occupied for a short period of time, after which the family would need to find alternative accommodation. Such provision would not provide the settled base the intended future occupiers are seeking.
31. Given the above, I find that there is a lack of suitable, available, affordable and acceptable alternative accommodation within the locality for the intended occupiers of the site, a matter to which I give significant weight.

### *Personal Circumstances*

32. The appellant owns the appeal site. The intended future occupiers of the site are his son, his son's partner who is pregnant, and their pre-school age child. Currently this family is living on the appellant's driveway in Telford and prior to this they were in Cirencester with family and friends. They have also lived on the roadside and have not had a settled base as a family unit.
33. The appellant's son and his family are seeking a settled base upon which to bring up their children and where they can also care for the appellant's horses which are stabled on the appeal site. It is intended that once the child(ren) are old enough that they will attend school which would be essential for their educational and social development. A settled base would also allow the intended future occupiers, including their child(ren) access to healthcare nearby, including doctors, health visitors and hospitals. This is particularly important given the age of the child, the expectant mother, and the health conditions of both parents.
34. In the event that the intended future occupiers cannot live on the appeal site, they would either need to continue living on driveways or the roadside. Such an existence in itself presents challenges in maintaining a good standard of health and well being and is not in the best interests of children.
35. Taking account of these factors, the personal circumstances of the future occupiers of the site, and especially the best interests of the child(ren), weighs substantially in favour of the proposal.

### *Other Appeal Decisions*

36. My attention has been drawn to a number of appeal decision. In the case of Adbo Farm, Rosehill<sup>2</sup> the Inspector found that there was at least some prospect that alternative modes of transport could be used for some of the journeys made by the occupiers of the site, with reference being made to a footpath connecting the appeal site to a bus stop. These circumstances are not directly comparable to the appeal site or the journey that would need to be taken to access nearby services and facilities.
37. In the appeal at Land at The Stables, Leamside<sup>3</sup> the Inspector found that the appeal site was not 'away from' an existing settlement, and thus given my finding above, this case is not directly comparable to that before me. Moreover, it appears that the highway conditions were not comparable to those in the appeal before me, including the journey to the nearest bus stop. In the land to the north west of Nelson's Lane appeals<sup>4</sup> whilst the distances from the settlement are similar to the appeal case, it appears that the context was different with sporadic development characterising the area as opposed to open, undeveloped countryside.
38. At the site at land at Willows Park, Slapton, Buckinghamshire<sup>5</sup> there was already a traveller site in this location which was served by a school bus. Whilst some of the issues raised are similar to those in the case before me, the circumstances are not directly comparable.

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<sup>2</sup> Ref APP/L3245/A/13/2196615

<sup>3</sup> Ref APP/X1355/C/14/2222375

<sup>4</sup> Ref APP/X0360/W/16/3150332 & APP/X0360/C/16/3150373

<sup>5</sup> Ref APP/J0405/C/13/2193582 & APP/J0405/C/13/2193601

39. The distances between the appeal site and the services in nearby settlements are similar to those in the appeal relating to 150 Sparrow Cottage, Shawbury Heath<sup>6</sup>. The unlit roads and lack of pedestrian facilities appears similar to as do the concerns raised by the Council in terms of accessibility. However, without understanding the context of this case, I am unable to ascertain whether the circumstances are directly comparable to that before me.
40. I acknowledge that the distances involved to the edge of Albrighton are not excessive and note the comments of the Inspector in the Washbeck Paddock, Scotby case<sup>7</sup> who found that if a settlement could be walked to then it was not away from the settlement for the purposes of the PPTS. It is unclear from this decision what the intervening land uses were or whether the highway conditions are comparable to the case before me.
41. Consistency in decision making is important to maintain public confidence in the system, but each and every case must be determined on its own merits. That is all the more so where personal need and other circumstances fall to be considered and in different policy contexts in some of the cases. Having considered all of these decisions, none is directly comparable with this case and accordingly this limits the weight I can give these decisions in my consideration of this case.

#### *Animal Welfare*

42. I note that a residential presence on site may be of benefit to the appellant in terms of caring for his horses, and that there may be some security benefits. However, I have little evidence before me to indicate that the existing arrangements are unsatisfactory in terms of both welfare and security. Moreover, and as set out above, I consider that the proposal would not result in a reduction in the number of vehicle movements to and from the site. Limited weight is given to these matters.

#### *Social and Economic Benefits*

43. I acknowledge that involvement in community life including attending school, frequenting local shops, places of worship and public houses would be likely to promote peaceful and integrated co-existence between the site and local community, however, this would be likely to be achieved irrespective of where the site was located.
44. I have no reason to find differently to the appellant that a settled base on the appeal site would be sustainable economically and socially. It would also be environmentally sustainable in relation to flood risk. However, such benefits would be small given the quantum of development proposed.
45. The Framework makes it clear that its sustainability objectives are interdependent and need to be pursued in mutually supportive ways. The harm to the Green Belt that would result would be substantial and taken with the high reliance on a private motor vehicle to access day to day services, conflicts with the environmental objective of sustainable development, which, amongst other matters seeks to protect our natural environment and move to a low carbon economy. This harm significantly outweighs the social and economic

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<sup>6</sup> Ref APP/L3245/A/14/2215836

<sup>7</sup> Ref APP/E0915/A/12/2182881

benefits of the proposal which results in the development not comprising sustainable development.

*Planning Balance*

46. At the start of considering the planning balance I have borne in mind the duties under the Public Sector Equality Duty and have placed no single aspect above the best interests of the child(ren) whose family intends to live on the site.
47. Paragraph 137 of the Framework makes it clear that the Government attaches great importance to Green Belts. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In accordance with paragraph 148 of the Framework, substantial weight is given to any harm to the Green Belt, which arises in this case from inappropriateness, loss of openness and encroachment, contrary to one of the Green Belt's purposes. Added to that is the unsuitable location of the appeal site, in conflict with the development plan and national planning policy.
48. Balanced against this is the need for more gypsy and traveller sites to cater for the current demand, to which I give significant weight. Significant weight is also given to the lack of suitable, available, affordable and acceptable alternative accommodation for the appellant's family at this time, with substantial weight given to the personal circumstances of the appellant's family, and particular the best interest of the child(ren). Limited weight is given to other matters, including animal welfare, vehicle trips and the social and economic benefits that would arise from the appellant's family living on the appeal site.
49. Taking all the above into account I find that the cumulative weight given to the other considerations do not clearly outweigh the harm that would be caused to the Green Belt and the conflict with the development plan taken as a whole. Consequently, the very special circumstances necessary to justify a permanent permission do not exist.
50. I have considered whether the grant of a personal or temporary planning permission would be justified and acknowledge that the proposal would be less harmful to the Green Belt because it would be for a temporary duration. However, the poor relationship to the nearest settlements would continue to exist and for these reasons and having regard to the other considerations advanced, including the best interest of the child(ren) I find that they would neither individually nor cumulatively outweigh the identified harm. Accordingly, a personal or temporary permission would not be justified in this case.
51. Even if I were to accept the assertion made by the appellant that the Council's development plan policies in respect of this appeal are out-of-date, the presumption given by paragraph 11 d) of the Framework does not apply because the policies in the Framework that protect areas or assets of particular importance, including land designated as Green Belt, provide a clear reason for refusing the development proposed.
52. The intended future occupiers do not live on the appeal site and dismissal of the appeal is likely to lead to circumstances where they continue to reside on driveways of friends and family or are faced with a life on the road. This would be an interference with their rights to a family life and to establish a home to facilitate a gypsy way of life but given the clear public interest in protecting the



Green Belt from harm and ensuring that new development meets the provisions of the development plan, I am satisfied that the dismissal of the appeal is necessary and proportionate.

**Conclusion**

53. For the reasons given above I conclude that the appeal should be dismissed.

*RC Kirby*

INSPECTOR

**APPEARANCES**

**FOR THE APPELLANT**

Matthew Green	GPS Ltd
John Price	Appellant
John Price	Appellant's son

**FOR THE COUNCIL**

Mike Davies	Consultant Planner
Dan Corden	Shropshire Council
Anna Jones	Shropshire Council
John Taylor	Shropshire Council

**DOCUMENTS SUBMITTED DURING THE HEARING:**

Document 1: Witness Statement of John Price

**DOCUMENTS SUBMITTED AFTER THE HEARING**

Document 2: Agreed wording for condition relating to the reduction in amount of hardstanding.