



Department for
Communities and
Local Government

Dr A Murdoch
Murdoch Planning
PO Box 71
Ilminster,
Somerset

Our Ref: APP/L3245/A/12/2179881
Your Ref: ROBERTS 1 2012

27 November 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR SHANE ROBERTS:
LAND ADJACENT TO THE ROUND HOUSE, FENN GREEN, ALVELEY,
SHROPSHIRE
APPLICATION REF: 11/04897/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, AR Hammond, MA, MSc, CEng, MIET, MRTPI, who conducted a hearing on 6 March 2013 into your client's appeal. The appeal was against a refusal to grant planning permission by Shropshire Council ("the Council") by a notice dated 17 July 2012 for a change of use to a private Gypsy and Traveller caravan site comprising one mobile home and two touring caravans, application Ref 11/04897/FUL.
2. On 3 July 2013, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990 because it involves proposals for a Gypsy and Traveller site in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed in part and temporary planning permission granted. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and recommendations insofar as they relate to temporary planning permission, and dismisses the appeal. A copy of the Inspector's Report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising after the close of the Inquiry

4. Following the close of the inquiry the Secretary of State wrote on 17 March 2014 to both you and the Council inviting further information for the purposes of his consideration of the application. This matter was: If you consider that the planning practice guidance (or the consequent withdrawal of any previous planning practice guidance) has relevance to your case. No representations were received in response to this invitation.
5. On the 14 August 2014, following the High Court Judgment in the case of Redhill Aerodrome vs. SSCLG and others the Secretary of State wrote to all parties to seek their views on the implications, if any, of the Judgment on their case. The Council responded saying –

“The application and subsequent judgment regarding the construction of a hard runway to replace an existing runway and associated works at Redhill Aerodrome has no bearing on the planning case that is currently before you for determination.”; and

“The Council’s reason to refuse planning application 11/04897/FUL states that the proposal is inappropriate development eroding the openness of the Green Belt. The refusal reason also refers to the development detracting from the visual amenity and rural character of the area and it is the Council’s position that these other adverse impacts are significant and are sufficient to justify refusal whether or not the site is within the Green Belt.”

6. No other responses were received. Copies of the correspondence can be made available upon written request to the address at the foot of the first page of this letter. On 9 October 2014, the Court of Appeal set aside the Judgment and Order of Patterson J dated 18 July 2014. As such, and given the parties responses on the matter, the Secretary of State does not consider it necessary to revert to the parties prior to reaching his decision on this appeal.

Policy considerations

7. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case, the development plan comprises the Shropshire Core Strategy (2011) (“CS”); the saved policies of the Shropshire County Council Joint Structure Plan 2006-2011 and adopted Shropshire Supplementary Planning Guidance.

Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (“the Framework”); the planning practice guidance published 6 March 2014; Planning Policy for Traveller Sites (PPTS); and the Written Ministerial Statements on Planning and Travellers of 1 July 2013 and 17 January 2014. The Secretary of State has also had regard to the fact that between 14 September 2014 and 23 November, the Government consulted on proposed changes to national planning policy and Planning Policy for Traveller Sites through the consultation document: “Planning and Travellers”. However, given that the consultation has now closed and that the Government is considering the responses to the consultation, he has given little weight to it in the determination of this appeal.

Main issue

9. The Secretary of State considers that the main issues are those identified by the Inspector at IR1.

Harm to the Green Belt and other harm

10. The Secretary of State agrees with the Inspector that the development constitutes inappropriate development in the Green Belt (IR2). He further agrees that the appeal scheme would be detrimental to the openness of the Green Belt, and that while this loss of openness could be limited in scale and could be restricted by conditions, it would still cause harm to the Green Belt (IR4). For the reasons given in IR5 the Secretary of State agrees that the development would involve encroachment into the countryside, contrary to one of the purposes of the Green Belt, and that while that harm would be limited as the site is close to other development, it would comprise additional harm.
11. The Secretary of State agrees with the Inspector that the visual harm to the character and appearance of the area is limited, for the reasons set out at IR6, and that this harm could be further limited by appropriate landscaping. However, he does not agree that this harm is minimal and attaches substantial weight to all Green Belt harm. He concludes that the siting of a mobile home and two touring caravans will in this instance impact on the character and appearance of an area on the edge of open countryside, and that this causes harm which he weighs against the appeal.
12. For the reasons given at IR7-8 the Secretary of State does not give any weight to the question of whether the site is or could be made fit for human habitation, or to issues of safety. For the reasons set out at IR9 he agrees with the Inspector that there is no significant harm caused by the impact of the development on the outlook of nearby residential properties.

Development Plan Policy

13. For the reasons given at IR11-13, the Secretary of State agrees that the appellant has a strong local connection as defined by Adopted Shropshire Planning Guidance "Type and Affordability of Housing", as required by CS Policy CS12 when considering small scale rural gypsy sites of under five pitches in the Green Belt.

Need for and supply of Gypsy sites

14. For the reasons given at IR16 the Secretary of State agrees with the Inspector's conclusion that the Council cannot demonstrate a five year supply of sites, and that there will remain a substantial unmet need for sites for the next few years (IR17).

Alternative sites

15. The Secretary of State agrees with the Inspector, for the reasons set out at IR18-20, that there is a lack of an identified alternative site for the appellant and his family, and that if the appeal site is not available they are likely to have no alternative but to return to a roadside existence.

Personal circumstances

16. The Secretary of State has carefully considered the personal circumstances of the appellant's children as set out at IR21-23. He agrees with the Inspector at IR23 that being at a stable fixed location would mean that the children would be able to access education and health services. However, he notes, with the Inspector, that the site is not ideally located in respect of distance to educational establishments (IR22), and while a school bus passes the appeal site he concludes that this does not entirely obviate the disadvantage of the site in terms of access to services, particularly given that the GP practice in Alveley is part time (IR23). Nevertheless he considers that the best interests of the children are a primary consideration of considerable weight in this case.
17. The Secretary of State has taken into account the appellant's health needs as described in IR24, and the importance of him having access to medical care. However, he notes, in common with the Inspector, that the appeal site is not ideally located for this purpose, especially in relation to travel to Birmingham. Albeit he recognises the importance that a settled base would provide to the appellant in facilitating access to medical care.
18. The Secretary of State has had regard to the care provided by the appellant's wife for his mother-in-law (IR25), to which he attaches limited weight.

Planning Balance

19. The Secretary of State attaches substantial weight to the fact that the proposed development is inappropriate development within the Green Belt. In line with paragraph 88 of the Framework he attaches further substantial weight to the limited harm to the openness of the Green Belt, and to the harm caused by reason of encroachment into the countryside, contrary to one of the fundamental purposes of the Green. In addition he gives more weight than the Inspector to the harm to the visual amenity of the Green Belt, for the reasons given at paragraph 11 above. He gives further limited weight to the adverse effect on the character and appearance of the area (IR29).
20. Against this, the Secretary of State gives some weight to the unmet need for Gypsy and Traveller sites and the fact that there is no immediate prospect of this need being met in the near future, and further weight to the lack of an alternative site for the appellant and his family. He gives minor weight to the family's need for access to educational and health services, for the reasons give at paragraph 16-17 above. He gives further limited weight to the care provided by the appellant's wife to her mother-in-law.
21. The Secretary of State concludes, in agreement with the Inspector at IR32, that on balance the factors in support of the appeal do not clearly outweigh the conflict with national policies designed to protect the Green Belt. The Secretary of State does not consider that the factors in support of the appeal comprise very special circumstances necessary to justify development.

Temporary permission

22. The Secretary of State has gone on to consider whether very special circumstances exist to justify the grant of a temporary planning permission. He has considered the Inspector's arguments in favour of granting temporary permission as set out at IR35, but concludes that the overall harm to the Green Belt will be substantial even when only for a limited period of time, and he attaches substantial weight to this.
23. The Secretary of State gives some weight to the unmet need for Gypsy sites in the Borough, and additional weight to the fact that there is no available alternative site for the appellant. He notes that if the appeal site is not available the appellant and his family are likely to have no alternative but to return to a roadside existence. He gives minor weight to the benefit to the family in having access to health and educational services, for the reasons set out at paragraph 16-17 above. He notes (IR33-34) that the Council is working to identify suitable sites to meet the identified need for Gypsy and Traveller sites, and that as such the planning circumstances are expected to change, and he gives some weight to this in favour of the proposal.
24. On balance he concludes that the totality of the harms, caused by the development, in particular by reasons of inappropriateness, even when only for a limited period of time, is not clearly outweighed by the factors in favour of the appeal. As such he concludes that very special circumstances do not exist so as to justify the grant of a temporary planning permission in this appeal.

Public Sector Equality Duty

25. In making his decision, the Secretary of State has had due regard to the requirements of the Public Sector Equality Duty, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others. In this regard and in coming to his decision he has considered the following impacts on the protected group: the need for sites and human rights considerations.
26. The Secretary of State agrees with the Inspector that the balance of considerations in favour of the appeal do not clearly outweigh the harm to the Green Belt by reason of inappropriateness, and harm to openness and encroachment into the countryside. He finds that the harm to the Green Belt arising from the development would not be clearly outweighed by other considerations such that the very special circumstances necessary for the granting of planning permission arise.

Human Rights

27. In terms of interference with the rights of the appellant and his family under Article 8 of the European Convention of Human Rights, the Secretary of State considers that these rights are engaged but qualified. He notes that a dismissal of the appeal would likely result in the appellant and his family being removed from the site and may force the family to continue a generally itinerant lifestyle resulting in an interference to their rights under Article 8 (IR23&26).
28. The Secretary of State considers that it is his role as planning decision-maker to ensure that any interference with these rights is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality. In consideration of this appeal he has particularly considered the economic well-being of the country (which includes the preservation of the environment).

29. The Secretary of State agrees with the Inspector that the need to maintain a Gypsy lifestyle is an important factor here, and that without an authorised site the appellant and his family will face difficulties in continuing this lifestyle (IR28). As such he agrees with the Inspector that, given the lack of an alternative site, the interference with the appellant's private and family rights is more serious. However, in this case the Secretary of State considers that the harm to the Green Belt is such that dismissal of this appeal is a necessary and proportionate response.

Conditions

30. The Secretary of State has considered the proposed conditions set out by the Inspector in Annex A to the IR. He is satisfied that these would meet the tests of the planning practice guidance. However, he does not consider that they overcome his reasons for dismissing this planning appeal.

Formal decision

31. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal for the change of use to a private Gypsy and Traveller caravan site comprising one mobile home and two touring caravans, application Ref 11/04897/FUL.

Right to challenge the decision

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

33. A copy of this letter has been sent to Shropshire Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by the Secretary of State to sign in that behalf



The Planning
Inspectorate

Report to the Secretary of State for Communities and Local Government

by A R Hammond MA MSc CEng MIET MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 3 July 2013

TOWN & COUNTRY PLANNING ACT 1990

SHROPSHIRE COUNCIL

APPEAL BY MR SHANE ROBERTS

Hearing held on 6 March 2013

Land adjacent to The Round House, Fenn Green, Alveley, Shropshire.

File Ref: APP/L3245/A/12/2179881

File Ref: APP/L3245/A/12/2179881

Land adjacent to The Round House, Fenn Green, Alveley, Shropshire.

- 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 Shane Roberts against the decision of Shropshire Council.
- The application Ref 11/04897/FUL, dated 14 October 2011, was refused by notice dated 17 July 2012.
- The development proposed is change of use of the land to a private gypsy and traveller caravan site comprising one mobile home and two touring caravans.

Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.

Main Issue

1. The main issue in this appeal is whether the harm by virtue of inappropriate development in the Green Belt, and any other harm, is clearly outweighed by other considerations so as to justify the scheme on the basis of very special circumstances.

Reasons

Harm to the Green Belt and other harm

2. Government policy, as expressed in Planning Policy for Travellers sites (PPTS) is that travellers sites (temporary or permanent) are inappropriate development in the Green Belt, which is, by definition, harmful. It is common ground that the appeal proposals are inappropriate development in the Green Belt.
3. In addition, Shropshire Core Strategy (2011) (CS) Policy CS5 strictly controls development in the countryside and Green Belt but concedes, with reference to CS Policy CS12 that small scale rural gypsy sites of under 5 pitches may be allowed where there is a strong local connection. CS Policy CS5 adds that development in accordance with CS Policy CS12 should maintain and enhance countryside vitality and character.
4. By introducing a residential caravan site into an undeveloped parcel of land the appeal scheme would be detrimental to the openness of the Green Belt. Whilst the reduction in openness, or lack of development, would be limited in scale and could be restricted to a small part of the appeal site by condition, it would nevertheless add to the harm by virtue of inappropriateness.
5. The appeal site is bounded to the south-east by "The Round House" a residential property; to the north-west by a large former public house, now a residential care home, and a number of agricultural buildings; and to the south-west by a lane, on the opposite side of which are a number of dwellings. The A442 road runs along the north-east side of the appeal site with open countryside beyond. Whilst the appeal site has development along 3 sides it is open land on the edge of open countryside and any development on it would comprise encroachment into the countryside, contrary to one of the purposes of the Green Belt. However the development would be restricted to the rear of the site close to existing development such that the harm would be limited, albeit that it would add further to the harm described above.

6. The appeal site is clearly visible from the A442 and the appeal scheme would be visible from the road. However it would be located at the extreme rear of the site and would be seen against the backdrop of existing residential development. Any visual intrusion could be ameliorated by appropriate landscaping, such that any resulting harm to the character and appearance of the area would be minimal, particularly given its location on the edge of the settlement.
7. A previous application for a residential caravan site, Ref. 11/01163/FUL, had been refused partly on the grounds that the land had previously been used for the tipping of waste and that no information had been provided to enable an assessment to be made as to whether the land was, or could be made, fit for human habitation. The appellants have provided a site investigation report. Despite concerns being expressed by neighbouring residents as to the efficacy of the investigation the Council's specialists are content that subject to a condition requiring further investigation and, if necessary, remediation, there is no reason to refuse planning permission on the grounds of contaminated land.
8. Local residents had also raised objections on the grounds of highway safety, sustainability and the effect on living conditions with regard to outlook. The Council confirmed at the hearing that they did not consider the site to be unsustainable and that the Highway Authority had no concerns regarding the access or highway safety. No evidence was put forward which would lead to a different conclusion on highway safety or sustainability and I consider that concerns on these grounds are unfounded.
9. With regard to outlook, the appeal proposal would be visible from nearby residential properties, in particular "The Round House". However the boundary with that property is some distance away from the proposed location of the mobile home and hardstanding for touring caravans. Any harm with regard to outlook could be mitigated by conditions regarding the precise positioning and the provision of landscaping such that there would be no significant harm in this respect.
10. Notwithstanding the above, the totality of harm to the Green Belt has substantial weight.

Development Plan Policy

11. Adopted Shropshire Supplementary Planning Guidance *Type and Affordability of Housing* (SPD) explains that for the purposes of applying CS Policy CS12, "strong local connection" is defined as meeting 2 or more of a set of criteria which include that:-
 - The applicants were born in the Shropshire Council area or lived in the Shropshire Council area as a child; and
 - The Shropshire Council area is their main place of work.
12. PPTS follows previous policy guidance in stating that local planning authorities should determine applications for sites from any travellers and not just those with local connections.
13. Nevertheless, at the hearing the appellant produced copies of his birth certificate, showing that he had been born in Oswestry, and the death certificate

of his father showing place of death as Whitchurch and the usual address as School Lane, St. Martins, Oswestry. Furthermore the appellant explained that he travelled throughout the County seeking work as a gardener. This evidence was not disputed and therefore, the appellant has a strong local connection as required by CS Policy CS12. This is a material consideration of some weight.

Need for and Supply of Gypsy Sites

14. PPTS provides national policy guidance for considering matters of need and supply with the emphasis of an assessment being carried out at the local level. Local planning authorities should use robust evidence to establish accommodation needs to inform plan making and decisions. Local plans should identify a supply of specific deliverable sites, updated annually, to provide 5 years worth of sites, together with specific developable sites or broad locations for growth up to ten years.
15. Paragraph 22 of PPTS sets out the considerations that apply in decision making. These include the existing level of provision and the availability of alternative accommodation.
16. The Council did not produce an up to date Gypsy and Traveller Accommodation Assessment (GTAA) but conceded at the hearing that there was currently a substantial unmet need for 65 pitches. The Council maintain that they are working hard to identify additional sites and have also approved a number of windfall sites. However the Council's planning policy team have advised that "Allocations for new sites for Gypsy and Traveller pitch provision will be made in a specific DPD and will not be part of the emerging Site Allocations and Management of Development (SAMDev) DPD. It is proposed to begin work on the first 'Issues and Options' stage of a Gypsy and Traveller DPD during late 2013 but because of the resources needed for the SAMDev examination in 2014 the Gypsy and Traveller DPD is unlikely to be completed before the end of 2015."
17. Therefore, it is clear that there will remain a substantial unmet need for sites for at least the next few years. This adds considerable weight to the appellant's case.

Alternative sites

18. The appellant and his family are currently at the appeal site in their touring caravans having previously been travelling, at the roadside or temporarily pitched at other sites when the occupiers were away travelling. It was explained that the appellant had spent time at a site at Wyrley in Staffordshire whilst undergoing medical treatment in Birmingham. The owner of that site, Mr Clee, had confirmed that Mr Roberts had been allowed to stay there on occasions and to use the site as a mailing address but that lawful occupation of the site was restricted to Mr Clee's family, which did not include the Roberts family.
19. At the hearing the Council confirmed that if the appeal was dismissed they would consider enforcement action to remove the Roberts family from the appeal site but would assist in attempting to identify an alternative site. However, given the existing unmet demand for sites in Shropshire it would

appear unlikely that a site could be found by the appellant or by the Council in the reasonable future.

20. With all authorised sites in Shropshire being full and/or restricted to specific families and the lack of any identified site elsewhere, the appellant would in all likelihood have no alternative but to return to living at the roadside if the appeal site were not available.

Personal Circumstances

21. The appellant has two children, Shane junior and Anna. Shane is of secondary school age and does not attend school but receives one hour home tuition a week. Anna is intending to attend college in Kidderminster and Shane junior intends to attend school in Bridgnorth.
22. The best interests of the children are a material consideration of considerable weight. Whilst the appeal site is not ideally located in respect of distance to educational establishments, there is a school bus which passes the appeal site on the way to Bridgnorth.
23. Being at a stable fixed location would mean that Shane junior in particular but also Anna would be able to access education as well as health services, albeit that the GP practice in Alveley is part time. As indicated above, in all likelihood the family would be forced to resume living at the roadside if they could not remain at the appeal site in which case the children would be denied that access to services. This adds substantially in favour of the case for the appellant.
24. Mr Roberts is currently in remission having been treated in Birmingham for acute myeloid leukaemia. Although in remission it is important that Mr Roberts has access to medical care for ongoing monitoring and potential further treatment. Again, that access would be denied if the family did not have a stable base. Whilst the appeal site is not located in an ideal location, especially in respect of travel to Birmingham should that be necessary, it is the only site available to him. Mr Roberts's health needs adds significantly to the case in his favour.
25. In addition, the appellant's mother-in law lives relatively nearby at Cutnall Green in Worcestershire. Mrs Roberts provides care for her mother on a regular basis. This matter adds further weight to the appellant's case.

Human rights

26. As regards Article 8 of the European Convention on Human Rights the appellant and his family are currently living on the appeal site, albeit in touring caravans without the benefit of planning permission, and dismissal of the appeal would be likely to result in their removal from the site and interference with their home and private and family life. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of the case.
27. That interference must be balanced against the wider public interest in pursuing the legitimate aims stated in Article 8, particularly the economic well-being of the country (which includes the preservation of the environment). The objections to the development are serious and the harm to the Green Belt could not be overcome by planning conditions.

28. The need to maintain a gypsy lifestyle is an important factor in the decision making process. Those gypsies without an authorised site face difficulties in endeavouring to continue their traditional way of life within the law. There is no site currently available within Shropshire and that lack of alternatives makes any interference with the appellant's private and family rights more serious. Whilst the appellant has moved onto the site without the benefit of planning permission the circumstances of his previous lack of a stable location needs to be taken into account.

Summary and overall conclusions

29. The development is inappropriate and, by definition, harmful to the Green Belt. That fundamental objection cannot be overcome by planning conditions and carries substantial weight. The development would also cause limited harm to the openness and to the purposes and visual amenities of the Green Belt in this location. There would also be an adverse effect on the character and appearance of the surrounding area. However, overall, the development would add only a small degree of additional harm to that caused to the Green Belt by reason of inappropriateness.
30. It is not disputed that there is a clear and immediate unmet need to accommodate gypsies in Shropshire. There is no immediate prospect that that unmet need will be satisfied in the immediate future such that there will be no other site available. If forced to leave the site it is likely that the appellant would be living on an unauthorised roadside encampment.
31. There is a general benefit to the family having reasonable access to a GP and educational services. Mr Roberts has a serious medical condition which, although in remission, would be difficult to monitor and manage if he did not have a settled base.
32. I have considered the factors in support of this development both singularly and cumulatively. Those considerations in support of the appeal, taken together, do not clearly outweigh the conflict with national policies designed to protect the Green Belt so as to justify the grant of a full planning permission on the basis of very special circumstances. Although, at present, there is no alternative site for the appellant to go to, in all the circumstances it is not disproportionate to refuse the grant of permanent planning permission.
33. Notwithstanding that the application is for a permanent permission the appellant submitted at the hearing that any temporary planning permission should be for a period that would enable the Council to search for sites and adopt a Development Plan Document (DPD) that caters for the needs that have been identified. Such a DPD would be likely to assist the appellant in identifying a suitable parcel of land and obtain planning permission for its use as a gypsy site. In the meantime the family would not have to suffer the considerable hardship that a roadside way of life would involve.
34. The Council state that it is working hard towards identification of suitable sites or broad areas to meet the identified need. Whilst resisting any grant of temporary permission it proposed that any temporary permission should be for no longer than 3 years. In my view it is optimistic to expect that a site specific DPD would be available within that timescale. The grant of a 5 year planning

permission would enable the identification of additional sites to have made considerable progress.

35. It is likely that changes to the planning circumstances that are expected to occur over the period of 5 years will significantly alter the overall balance in this case. I conclude that the substantial harm, when for a limited period, is clearly outweighed by other considerations including the current unmet need for Gypsy sites in the area, the inadequacies of adopted Development Plan policies, the present lack of a suitable alternative site, the personal needs and circumstances of this particular Gypsy family and the prospect of considerable progress towards a Gypsy and Traveller DPD over the temporary period. Very special circumstances therefore exist to justify the grant of a temporary planning permission for the period of 5 years.
36. I consider the grant of a temporary permission to be a proportionate response that strikes a balance between the competing interests of the appellant and of the wider public interests. There would be no violation of the appellant's rights under article 8 of the Convention.

Planning Conditions

37. At the Hearing the main parties discussed planning conditions that might be imposed in the event of the appeal being allowed. For the reasons given above I consider that the permission granted should be for a temporary period of 5 years. In order to reflect the personal circumstances and need which justified allowing the appeal I believe that the permission should be made personal to Mr Shane Roberts, Mrs Sharon Roberts and their dependants. As a personal condition would be imposed it would not be necessary to also impose a Gypsy-occupancy condition.
38. As the permission is temporary, it would be necessary to impose a condition requiring all caravans, structures, materials and equipment to be removed and the land restored when the use ceases.
39. There are 2 touring caravans on the site and it is proposed to add one mobile home. The appellant agrees that any planning permission granted should be so limited. I also consider that it is necessary to control the siting of the caravans within the plot. I believe that it is both reasonable and necessary to impose planning conditions to limit the use in this way. This is so as to uphold the purposes and safeguard the openness of the Green Belt and to safeguard the rural character and appearance of the surroundings.
40. As the change of use has taken place it would not be necessary to impose a condition requiring the development to be begun within 3 years from the date of the decision and it would not be possible to impose conditions requiring works to be undertaken or schemes approved prior to any development taking place. It would therefore be necessary to impose any conditions requiring schemes to be agreed, or works carried out, to require the use to cease and all caravans, structures, equipment and materials brought onto the land for the purposes of that use to be removed should the requirements of the condition not be met within a specified timescale.
41. Notwithstanding the submitted drawings, it would be necessary to impose a condition requiring approval and implementation of a scheme of siting of the

caravans; foul and surface water drainage; and hard and soft landscaping of the site, including walls, fences and other means of enclosure, hardstanding, parking and amenity areas and existing and proposed planting, in order to protect the visual amenities of the Green Belt and the surrounding rural area. The condition imposed will also make provision for the replacement of failed planting. I do not believe that the capital outlay would be excessive. It would not be unreasonable to impose such a condition on a temporary permission of this length.

42. Given the nature and history of the appeal site it would be necessary that a condition be imposed requiring a site investigation to be undertaken to establish the nature and extent of any contamination on the site and requiring any necessary remedial works to be carried out.
43. In order to protect the Green Belt and visual and residential amenity it would also be necessary to impose a condition to prevent any commercial activity or storage of materials and to restrict the number of commercial vehicles on site to not more than one which shall be of not more than 3.5 tonne gross weight.

Recommendation

44. I recommend that the appeal be allowed and planning permission be granted subject to the conditions in the attached schedule.

Andrew Hammond

INSPECTOR

Schedule of conditions

- 1) The use hereby permitted shall be carried on only by Mr Shane Roberts and Mrs Sharon Roberts and their dependants and shall be for a limited period being the period of 5 years from the date of this decision, or the period during which the site is occupied by them whichever is the shorter.
- 2) When the site ceases to be occupied by Mr Shane Roberts and Mrs Sharon Roberts and their dependants, or at the end of 5 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the premises in connection with the use hereby approved shall be removed, and the land restored to its condition before the use commenced.
- 3) No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home), shall be stationed on the site at any time.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) within 3 months of the date of this decision a scheme providing details of the siting of the caravans; surface and foul water drainage; the hard and soft landscaping of the site including details of the position, height, colour, type and materials of walls, fences and other means of enclosure; hardstanding; parking and amenity areas; indications of all existing trees and hedgerows on the land, and details of any to be retained; details of the size, species and spacing of all proposed trees and shrubs (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - (ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - (iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 5) If at any time during the occupation of the site by Mr Shane Roberts and Mrs Sharon Roberts and their dependants any tree, hedge or shrub planted as part of the development scheme is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, it shall be replaced with another of the same species

- and size as that originally planted unless otherwise approved in writing by the local planning authority.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (vi) below:
- (i) Within 3 months of the date of this decision a scheme and timetable for a site investigation of the nature and extent of contamination (hereafter referred to as the site investigation scheme shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - (ii) within 11 months of the date of this decision the site investigation scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site investigation scheme shall have been approved by the Secretary of State.
 - (iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
 - (v) the results of the site investigation shall be made available to the local planning authority. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
 - (vi) if an appeal is made in pursuance of (v) above, that appeal shall have been finally determined and the submitted site investigation scheme shall have been approved by the Secretary of State.
- 7) No commercial activities shall take place on the site, including the external storage of materials.
- 8) No more than one commercial vehicle, which shall be of not more than 3.5 tonnes gross weight, shall be brought onto site at any one time.

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch	Angus Murdoch Planning, P. O. Box 71, Ilminster, Somerset
Mr Shane Roberts	Fenn Green, Alverley, Bridgnorth WV15 6JA
Mrs Sharon Roberts	Fenn Green, Alverley, Bridgnorth WV15 6JA

FOR THE LOCAL PLANNING AUTHORITY:

Dyanne Humphries	Shropshire Council
Cllr Tina Woodward	Shropshire Council

INTERESTED PERSONS:

David Voysey	Local resident
Vanessa Steele	Local resident
Mr & Mrs Spencer	Local residents
Syd Matthews	Local resident
Miss Isley Jakeman	Local resident
Clive Haycocks	Local resident



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.