



Appeal Decision

Hearing held and site visit made on 11 January 2024

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Appeal Ref: APP/J0540/W/23/3328478

Land south west of Northey Road, adjacent to Barsby Meats, Northey Road, Peterborough PE6 7YX

- 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 Billy Joe Vinden against the decision of Peterborough City Council (PCC).
 - The application Ref 22/01400/FUL, dated 5 October 2022, was refused by notice dated 27 February 2023.
 - The development proposed is the use of land for the stationing of caravans for residential purposes and the erection of a dayroom and laying of hardstanding ancillary to that use.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of caravans for residential purposes and the erection of a dayroom and laying of hardstanding ancillary to that use at land south west of Northey Road, adjacent to Barsby Meats, Northey Road, Peterborough PE6 7YX in accordance with the terms of the application, Ref 22/01400/FUL, dated 5 October 2022, subject to the conditions set out in the schedule attached to this decision.

Applications for costs

2. Applications for costs were made by Peterborough City Council and Mr Billy Joe Vinden against each other. These applications are the subject of a separate Decision.

Preliminary Matters

3. On 19 December 2023, Government updated the National Planning Policy Framework (the Framework) as well as its Planning policy for traveller sites (PPTS). The latter responded to a judgment made in the Court of Appeal on 31 October 2022, in the case of *Smith v SSLUHC & Ors*. This was through reverting to the definition¹ of Gypsies and Travellers used in the PPTS first adopted in 2012. This restored to the definition those who on grounds only of their own or their family's or dependants' educational or health needs or old age had ceased to travel permanently. This expanded the 2015 PPTS definition, which applied only to those who had ceased to travel temporarily and was found unlawfully discriminatory by the Court of Appeal.

¹ Annex 1: Glossary of PPTS

4. Policy LP10 of the Peterborough Local Plan² (LP) is permissive of Gypsy and Traveller sites in the countryside (i.e. outside the urban area and village envelopes) provided that there is evidence of a need, that the intended occupants meet the national PPTS definition and certain other criteria, all satisfied in this case, are met.
5. The Council's single reason for refusal had been over the lack of evidence of need and Gypsy and Traveller status necessary to comply with this policy. The appellant provided a witness statement with the appeal. This provided sufficient evidence of both personal need and Gypsy and Traveller status to satisfy the Council that the requirements of Policy LP10 were met. However, the appeal is against the refusal reason, which was principally over the lack of this information.

Main Issue

6. Based on the Council's decision, the main issue in the appeal is whether the proposal is acceptable on the basis of the development plan or any other material considerations.

Reasons

7. The proposal relates to a plot of land located amongst a small amount of existing development within the fenland countryside outside of Peterborough. The refusal reason describes the site as located within open countryside. However, whether deemed to be open or otherwise, the development plan conflict relates to the policy definition of countryside, whereby the site falls outside the settlement boundaries and urban area defined by the LP. Because the plot lies between an employment site and existing Traveller pitches, with housing opposite, it hardly amounts to an encroachment into the open countryside as alleged in the Council's decision.
8. Subject to suitable conditions, the proposal would meet all of the general criteria a) to e) in Policy LP10, necessary for permitting a Gypsy and Traveller site. This is in relation to matters including highway safety, flood risk, foul drainage, infrastructure capacity and accessibility to schools and other services. Further criteria are met through the scheme resulting in no material harm to either the character and appearance of the area or the living conditions of neighbouring occupiers.
9. Because the site is in the countryside defined by the LP, the support of Policy LP10 is also dependent upon evidence of a need. This is not specified as being a personal need and the policy could reasonably be met through a general one.
10. The supporting text to Policy LP10 refers to the latest Gypsy and Traveller Accommodation Assessment (GTAA) of October 2016. This identified no additional need for Gypsy and Traveller sites in Peterborough and therefore the LP does not make any such allocations.
11. The GTAA is not a recent one and had been conducted on the basis of the previous 2015 PPTS definition of Gypsies and Travellers, thus excluding those who might have met this, save for having ceased to travel permanently. It might therefore no longer reflect the current need for Gypsy and Traveller sites in Peterborough.

² Peterborough Local Plan 2016 – 2036 adopted 24 July 2019

12. Regardless of this, the GTAA identifies that there may be an 'unknown' need for up to 16 pitches between 2016 and 2036. This unknown need is to be met through the determination of planning applications, taking into account policy requirements. To my mind, this general need satisfies the relevant criterion of Policy LP10, despite the previous lack of evidence of a personal one.
13. The Policy LP10 requirement to demonstrate a need does not in any event square with the terms of the PPTS. This requires Councils to plan for meeting a need for Gypsy and Traveller sites. However, as with any other forms of housing, meeting such a need does not impose a ceiling upon further provision. This is evident from paragraph 24 of the PPTS, where locally specific policy criteria should apply to proposals where there is no identified need for pitches.
14. In respect of Gypsy and Traveller status, the intended occupants do in fact meet the national PPTS definition. Moreover, the Council did not suggest any permission should be made personal to the appellant.
15. The requirement for evidence of Gypsy and Traveller status is a further requirement of Policy LP10 for proposals in the countryside. Paragraph 25 of the PPTS requires new traveller site development to be very strictly limited outside areas allocated in the development plan. However, there is nothing in the PPTS that precludes such development in the countryside provided this respects the scale of, and does not dominate, the nearest settled community, and avoids placing an undue pressure on the local infrastructure. Meeting the PPTS definition is not listed in paragraph 24 as a relevant matter when considering planning applications for traveller sites.
16. The proposal would satisfy Policy LP10 in helping to meet a general need for Gypsy and Traveller pitches. This could be assured through a standard occupancy condition, irrespective of the appellant's status. There had been conflict with the terms of Policy LP10, in respect of a lack of documented evidence of this. Despite this previous lack of evidence, the accommodation proposed would still have delivered appreciable social benefits by helping to meet the Government's aim to promote more private traveller site provision.
17. These general benefits would have clearly outweighed any harm amounting from just the lack of the personal information sought by the Council. Given the absence of any site specific harm, such benefits would provide a material consideration of more than enough weight to indicate in favour of the proposal, notwithstanding the conflict with the full terms of Policy LP10.

Conditions and conclusion

18. Certain matters depend on conditions to ensure compliance with development plan policy. Those suggested by the parties were discussed at the Hearing and I have reconsidered these against the tests in Framework paragraph 56. Amendments have been made, mainly in the interests of succinctness and proportionality.
19. In addition to the standard three-year time limit for commencement (1), a condition is needed for certainty specifying the plans approved (2). In the interests of character and appearance, a condition is required governing the external materials of the day rooms (3).
20. To ensure compliance with development plan policy, a condition ties occupation to persons meeting the PPTS definition of Gypsies and Travellers (4). In the

interests of retaining control over landscape impacts, a condition is necessary governing the number of static and other caravans (5).

21. A condition is required to ensure suitable means of foul drainage, in order to satisfy criterion d of Policy LP10 (6). Another condition is needed combining landscaping and ecological enhancement requirements, to satisfy Policy LP10 criterion a (7), as is another addressing any site contamination (8).
22. Subject to these conditions, and for the reasons given, I conclude that the appeal should succeed and planning permission be granted.

Jonathan Price

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Green (Green Planning Studio Ltd)
Mr Billy Joe Vinden

FOR THE LOCAL PLANNING AUTHORITY:

Asif Ali, Senior Development Management Officer, PCC
Lee Walsh, Development Management Team Leader, PCC

DOCUMENTS SUBMITTED AT THE HEARING

Document 1: Witness statement of Mr Billy Joe Vinden – updated as of Hearing date

Document 2: Revised schedule of conditions

Document 3: Copy of Court of Appeal judgment in *Smith v SSLUHC & Ors [2022] EWCA Civ 1391*

Document 4: Copies of emails between main parties from 1 September 2023 13:48 to 5 September 2023 10:46.

Document 5: Appeal and costs decision in APP/V2635/W/22/3294180 *Moyse's Bank, School Road, Marshland St. James, Wisbech, Norfolk PE14 8EY*

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan (21_1180_001 Revision C)
 - Proposed Block Plan (21_1180_003 Revision B)
 - Dayroom Elevation (21_1180_005)
- 3) No development above slab level shall be carried out until details of all external materials of the day rooms hereby permitted are submitted to and agreed in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.
- 4) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 5) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be static caravans) shall be stationed on the site at any time.
- 6) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the

development hereby permitted, in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.

- 7) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping and ecological management. The scheme shall include:
- indications of all existing trees and hedgerows on the land, identifying those to be retained and setting out measures for their protection throughout the course of development.
 - ecological mitigation, safeguarding and enhancement as recommended in the Ecological Appraisal by Allied Ecology, September 2022.

The scheme of landscaping and ecological management shall thereafter be adhered to throughout the occupation of the accommodation permitted. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the caravans and any trees or plants which within a period of 5 years of this die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 8) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 42 days of the report being completed and approved in writing by the local planning authority.
