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# Appeal Decision

Hearing held and site visit made on 22 August 2023

**by Jonathan Price BA(Hons) DipTP MRTPI DMS**

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

**Decision date: 28 September 2023**

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**Appeal Ref: APP/V0510/W/23/3320862**

**Land north of Pools Road, Wilburton, Ely, Cambridgeshire**

- 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 A Buckley against the decision of East Cambridgeshire District Council (The Council/ECDC).
  - The application Ref 22/00341/FUL, dated 18 March 2022, was refused by notice dated 24 October 2022.
  - The development proposed is change of use of land to 10 residential Gypsy/Traveller pitches each with a residential static caravan and one touring caravan (temporary or permanent), works to access and formation of hardstanding for occupation by the applicant and members of their family.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A revised National Planning Policy Framework (NPPF) was published on 5 September 2023. The policies pertaining to this proposal remain unaltered, so I have not sought the further views of parties. As Government policy the NPPF is a material consideration of considerable weight, as is the associated Planning Practice Guidance (PPG) and Planning Policy for Traveller Sites (PPTS).
3. A Statement of Common Ground (SoCG) between the main parties was provided on 17 August 2023. The most recent Gypsy and Traveller Accommodation Assessment for East Cambridgeshire (GTAA) was published in October 2016, with a base date of 1 February 2016. The main parties agree that the GTAA is effectively out of date and the Council is unable to adequately demonstrate a five-year supply of traveller sites at the present time. Furthermore, it would be unable to confirm the availability of realistic alternative accommodation for the appellant. I find no reason to disagree with any of the above, nor that there is sufficient information to demonstrate that the proposed occupants satisfy the definition of Gypsies and Travellers within the PPTS.

## Main Issues

4. The main issues in this case are:
  - the effect of the proposal on the character and appearance of the area, and
  - whether the site would provide safe access, and be within a reasonable distance of regularly-required services and facilities.

## Reasons

### *Character and appearance*

5. The appeal relates to a rectangular parcel of land within countryside lying to the south of the nearest settlement of Witchford. It is laid mainly to grass and has been sub-divided into 10 paddocks; five either side of an access track running perpendicularly from a centrally located entrance from Pools Road. The rectangle of land extends to its greatest length away from the road and runs up to a drainage ditch along the rear boundary.
6. The wider landscape is quite typical of the Cambridgeshire Fens. Main settlements are often concentrated on slightly higher areas of land, such as at Witchford to the north and the city of Ely to the east. Outside of these, the rural landscape is mainly that of expansive areas of level farmland, drained by a network of ditches. This landscape mostly comprises large rectangular fields under arable cultivation. The relative lack of woodland, trees and hedging within a flat topography provides the long, 'large sky' views across the open farmland from the straight and narrow roads that traverse it. Most fields are defined by the rectilinear network of drainage channels, rather than less prevalent hedgerows.
7. Development away from the main settlements is generally sparse and sporadic and focused along straight road frontages. Traveller sites comprise a common component of this prevailing development. I noted the many examples of these along roads in the vicinity, such as further to the west on Pools Road and south on Grunty Fen Road and White Cross Road. These often comprise fenced or walled compounds with gated entrances leading onto hardstanding areas. These areas are occupied by static and touring caravans, vehicles, lighting and other items reflective of the occupiers' livelihoods.
8. The contents of Traveller sites are generally low height, not always including tall, two-storey houses. Nevertheless, much like modern farm buildings, they can appear rather stark and less visually sympathetic than more traditional forms of rural development. However, the PPTS implicitly accepts that rural areas play a part in meeting the housing needs of Gypsies and Travellers. A level of harm to the character and appearance of the countryside becomes an inevitable outcome of this.
9. The immediate surroundings of the appeal site are somewhat less typical of the Fenland landscape. Travelling east along Pools Road, the arable prairies give way to smaller horse paddocks and generally more vegetation. This includes the hedging around the appeal site and the plantation on the opposite side of the road. This greenery provides the area with a more intimate and attractive rural character. Although the vegetation provides some degree of visual enclosure, the proposed pitches would run deep into land that rises gently. This proposal would have a comparatively greater impact than existing Traveller sites in the locality. These are mainly on shallower plots that run along the public highway, from where the visual impact would mainly be confined.
10. This proposal would be along a stretch of road lacking Traveller sites and much development at all. In such a context, the harm to the landscape from a deep incursion of ten caravan pitches would be particularly pronounced. The rising land would reduce the effectiveness of the front hedging in screening the pitches towards the rear of the site. Views from the road and through the

vegetation, particularly during winter months, would be of development extending deep into the open landscape, accentuating the adverse visual impacts of the caravans and associated features.

11. The proposal would have a particularly harmful effect on views from the public right of way running at an elevated height alongside the rear site boundary. From here, as well as approaching from the north along Grunty Fen Road, the ten pitches and their contents would be very prominent. The existing vegetation would not fully screen the pitches, but the hedging around the site might be maintained to soften views. The caravan pitches would nevertheless comprise a discordant feature within a surrounding undeveloped area of horse pastures, tree planting and farm land.
12. For the above reasons, the change of use would conflict with Policy ENV 1 of the East Cambridgeshire Local Plan of April 2015 (LP). This is insofar as the pitches would neither protect nor enhance the character of the landscape and its unspoilt nature. There would be a significant adverse impact on the character and appearance of the countryside and the setting this provides to Witchford village. As a consequence, this proposal would not satisfy the second criterion of LP Policy HOU 9 for allowing unallocated Gypsy and Traveller accommodation.
13. LP Policy GROWTH 2 strictly controls development outside defined settlement envelopes, to protect the countryside and the settings of towns and villages. Gypsy and Traveller sites comprise one of the main categories of development which may be permitted as an exception to this. However, because this proposal would have a significant adverse impact on the countryside, failing to satisfy both policies ENV 1 and HOU 9, there would be further conflict with Policy GROWTH 2.
14. Meeting a need for Gypsy and Traveller accommodation requires an inevitable degree of harm to the character and appearance of the rural landscape. However, due to the relatively attractive and unspoilt nature of the countryside along this section of Pools Road, the scale and depth of the incursion into this and the public views available from both the front and rear of the site, the degree of harm attracts substantial weight.

*Whether the site would provide safe access, within a reasonable distance of regularly-required services and facilities.*

15. The appeal site fronts onto a straight section of Pools Road. This is an adopted C-class public highway of about 5.5m carriageway width. It is unlit and runs through an unbuilt area, subject to the 60 mph national speed limit. Some 200 metres from the edge of the appeal site, to the east, is a marked give way junction onto Grunty Fen Road. This leads north to the nearest main village of Witchford. There are no roadside footways alongside the connecting highway, although this settlement can be reached from the rear of the appeal site along alternative public rights of way.
16. The centrally placed access onto Pools Road maximises visibility in either direction. For the recorded traffic speeds along Pools Road, the local highway authority requires the 2.4m by 215m visibility splays at either side of the access shown in the appellant's highways statement<sup>1</sup>.

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<sup>1</sup> PSB Services (Norfolk) Limited Report ref. 20216/A March 2020.

17. Much of this visibility would be provided through the highway verge being maintained free of obstruction. However, the appeal site fronts onto a ditch running behind the verge, which is outside the appellant's ownership and not part of the public highway. The hedge along the front of the appeal site has grown outwards, over this drainage ditch.
18. To provide the visibility requires a relatively small amount of trimming back of this hedge, reducing to either side of the access as the splay tapers. There would be less trimming back required in the more critical right hand direction, where traffic approaches on the nearside of the road. There is a theoretical possibility of third party land ownership preventing the required visibility being achieved. However, the provision of visibility and the maintenance of the ditch are mutually compatible. In practical terms, adequate visibility could be achieved and maintained. Therefore, a highway safety objection to this proposal cannot reasonably be substantiated.
19. In addition to the issue of safe vehicular access onto the highway, the Council's second reason for refusal referred to the lack of safe/easy routes for pedestrians to access services and facilities, meaning that future occupiers would be reliant on using their motor vehicles. The SoCG confirms that the parties agree that LP Policy HOU 9 is consistent with the PPTS in that Gypsy and Traveller sites may be located in rural and semi-rural areas, subject to other relevant criteria.
20. Despite the lack of footways alongside the intervening highway, there is a route into Witchford along public rights of way. However, these are unlit and the distances involved would make private car use more attractive to reach regularly required facilities, given the lack of a convenient bus service.
21. Witchford provides a good range of services, including primary and secondary schools, a post office and general store, a public house and a hot food takeaway. These are only a very short car drive from the site. The fuller range of services in Ely are further away but may be conveniently accessed by slightly longer car journeys.
22. Gypsy and Traveller sites are one of the exceptions given in Policy GROWTH 2, which otherwise focuses development to within settlements to support local services, shops and community needs. As such services are within reasonable travelling distance of the appeal site, I find this proposal to satisfy the first of the bullet point criteria of Policy HOU 9.
23. On this basis I find the transport impact of this proposal would cause no significant harm from any conflict with LP Policy COM 7. This is insofar as this seeks to reduce the need to travel, particularly by car, and to promote sustainable forms of transport appropriate to the particular location. The proposal would provide occupiers safe access, within a reasonable distance of regularly-required services and facilities in compliance with LP policies COM 7 and HOU 9.

## **Other Matters**

### *Flood Risk and Drainage*

24. The NPPF provides Government policy over planning and flood risk. The PPG provides further advice over how this should be applied. The appeal site lies primarily within Flood Zone 3 (FZ3) as shown on the Environment Agency (EA)

flood maps. This is land defined by the PPG as having a high probability of flooding. Caravans are classed as highly vulnerable in the PPG and not compatible with FZ3, where these should not be permitted.

25. However, the EA has accepted the appellant's site specific Flood Risk Assessment (FRA) and concurs with its conclusions over there not being a high probability of flood risk from tidal and designated main river sources. The EA considers that the main source of flood risk at this site is associated with watercourses under the jurisdiction of the Internal Drainage Board (IDB), which the FRA considers to be low. As such, the EA has confirmed that it has no objection to the proposed development on flood risk grounds. The IDB and Lead Local Flood Authority are satisfied in principle with the proposed surface water drainage strategy and find that a detailed scheme could be reasonably secured through planning conditions.
26. The FRA finds that the development could be made safe for its lifetime through conditions requiring raised floor levels and occupiers signing up to the EA flood warning service. The Council had accepted this and not refused the proposal on flood risk grounds. It had referred to the sustainability benefits of meeting a high need for Traveller pitches as satisfying the exception test in relation to flood risk<sup>2</sup>. However, Government advice in the PPG is clear that the exception test does not apply to highly vulnerable development within FZ3, which should not be permitted<sup>3</sup>. Even if I were to depart from the requirements of the PPG and find the proposal acceptable on flood risk grounds, this would amount only to an absence of harm. It would be a neutral factor in the overall planning balance.

### **Planning balance and conclusion**

27. The proposal would satisfy a number of LP policies, including those that address highway safety, access to services and facilities, supporting infrastructure and the general principle of a development beyond settlement boundaries. However, the cross-cutting requirement to avoid significant adverse impact on the character and appearance of the countryside means that, in my view, the proposal would conflict with the development plan considered as a whole.
28. There is a lack of a five-year supply of traveller sites in East Cambridgeshire and the unmet need is likely to be substantial. The ten pitches proposed would provide significant benefits by addressing both of these matters.
29. I have had regard to the personal circumstances provided and the proposal would provide a settled and secure base for the ten growing households. They are currently living in sites dispersed around the county and in situations which are often less secure, overcrowded and where there is not the support of close family members that this proposal would provide.
30. These personal circumstances also weigh significantly in favour of the proposal. In considering these, I have borne in mind Article 8 of the European Convention on Human Rights as this relates to a respect for private and family life. I have considered this in regard to the cultural aspects of Gypsy and Traveller life and the benefits of this proposal in bringing together a currently

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<sup>2</sup> Officer report dated 24 October 2022, p14.

<sup>3</sup> PPG Paragraph: 079 Reference ID: 7-079-20220825 Revision date: 25 08 2022 Table 2: Flood risk vulnerability and flood zone 'incompatibility'.

dispersed extended family. In this context, the best interests of the children involved has been my primary consideration. It is forefront in my mind that the mutual family support provided through a collective and settled base could be particularly beneficial towards meeting the health, welfare and educational needs of the children involved.

31. However, these combined benefits are insufficient to outweigh the development plan conflict and associated adverse impacts. This is particularly given the substantial degree of harm found to the character and appearance of the countryside and the weight given to this.
32. The Council cannot demonstrate an up-to-date five year supply of deliverable Traveller sites. Applying paragraph 27 of the PPTS, this should be a significant material consideration over a granting of temporary permission. However, this would not materially alter the balance of considerations, as the harm found to the character and appearance of the countryside would remain substantial and the overall benefits, in not providing a permanent settled base, would be less. Therefore, permission on a temporary basis would not be appropriate and, for the reasons given, I conclude that the appeal should be dismissed.

*Jonathan Price*

INSPECTOR

## **APPEARANCES**

FOR THE APPELLANT:

Philip Brown BA(Hons)

FOR THE LOCAL PLANNING AUTHORITY:

Gavin Taylor ECDC

Shane Luck, Cambridgeshire County Council highways department

INTERESTED PARTIES:

Philip Kratz BA(Hons) LMRTPI Solicitor

Councillor Bill Hunt (ECDC and Cambridgeshire County Council)