

Appeal Decision

Hearing held on 25 November 2015

Site visit made on 25 November 2015

by Sara Morgan LLB (Hons) MA Solicitor (Non-practising)

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

Decision date: 11 February 2016

Appeal Ref: APP/J1535/W/15/3130603

Sons Nursery, Hamlet Hill, Roydon, Harlow CM19 5JZ

- 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 Mrs Kathleen O'Driscoll against the decision of Epping Forest District Council.
 - The application Ref EPF/0995/15, dated 28 April 2015, was refused by notice dated 24 June 2015.
 - The development proposed is a change of use of part of the site to a residential Gypsy and Traveller site for a temporary period of four years, involving the siting of two static caravans and two touring caravans, and an extension to, and the change of use of, the office/store building to a utility block.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of the site to a residential Gypsy and Traveller site for a temporary period of four years, involving the siting of two static caravans and two touring caravans, and an extension to, and the change of use of, the office/store building to a utility block, at Sons Nursery, Hamlet Hill, Roydon in accordance with the terms of the application, Ref EPF/0995/15, dated 28 April 2015, and the plans "Sons Nursery Location Plan - April 2015"; "Sons Nursery proposed site plan 04/15"; and "Utility Block Plan Sons Nursery" submitted with it, subject to the following conditions:
 - 1) The use hereby permitted shall be carried on only by the following: Kathleen O'Driscoll, her daughters Mary Anne and Crystal (and their dependent children), their partners Patrick Saunders and Michael Dooley, and Kathleen O'Driscoll's sons Sonny O'Driscoll and Jimmy O'Driscoll, and shall be for a limited period being the period of 4 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
 - 2) When the land ceases to be occupied by those named in condition (1) above, or at the end of 4 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.
 - 3) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no
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- more than 2 shall be a static caravan) shall be stationed on the land at any time.
- 4) No commercial vehicle over 3.5 tonnes in weight shall be stationed, parked or stored on the land.
 - 5) No commercial activities shall take place on the land, including the storage of materials.
 - 6) No skirting or other obstruction shall be placed around the base of any of the caravans or mobile homes, and no materials shall be stored beneath them, that could prevent good airflow and permit ground gases to accumulate.
 - 7) 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 for:
 - (a) the means of foul and surface water drainage of the site;
 - (b) existing and proposed external lighting on the boundary of and within the site;
 - (c) the internal layout of the site, including the siting of caravans, areas of hardstanding, fencing and other means of enclosure, and fencing to be removed;
 - (d) the provision of a robust and durable impermeable surface (e.g. reinforced concrete) on which the mobile homes and caravans are to be sited to ensure that there is no contact with underlying soils (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.

Preliminary matters

2. The application site, shown edged red on the application plan, forms part of a larger area of land, formerly in use as a nursery. At the hearing the appellant's agent Mr Hargreaves indicated that the reference in the application description to a change of use of part of the site was in fact a reference to a change of use of part of the larger area of land. The appeal application does refer and is intended to apply to a change of use of the whole of the area edged red on the application location plan. I shall deal with the appeal on that basis.

3. The extension to the office/store building and its change of use to a utility block has already taken place, albeit that the internal layout at the time of my site visit is not in its finally intended form as shown on the application layout drawing. The change of use of the land has also taken place. There was one static caravan on the site at the time of my visit, which was apparently occupied, and a portable building which has been used as living accommodation and which is the subject of an extant enforcement notice. The appeal application does not seek permission to retain this building.

Gypsy status

4. When the Council considered the appeal application, it did not dispute that the appellant and the other proposed occupiers fell within the definition of Gypsies and Travellers in *Planning policy for traveller sites* (PPTS). Since then, an updated version of PPTS¹ has been published, which contains an amended definition. The definition is now -

“persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel **temporarily**...”²”
5. In determining whether persons fall within the definition, the guidance requires consideration to be given to whether they had previously led a nomadic habit of life, the reasons for ceasing their nomadic habit of life, and whether there is an intention of living a nomadic habit of life in the future, and if so how soon and in what circumstances.
6. The appellant comes from an Irish Traveller background. She travelled extensively with her family when her children were young, following a nomadic way of life without a home base. According to her aunt, who attended the hearing, she cannot live in a house. She was provided with a house some time ago but lived in it for less than two years because living in the house isolated from the Traveller community and enclosed by bricks and mortar made her seriously depressed. She ceased travelling initially because of the educational needs of her children. However, she has now become seriously ill. A nomadic way of life would now be impossible for her because of her health.
7. It is clear that the appellant did live a nomadic way of life, and only gave up that nomadic way of life temporarily because of the needs of the children. I accept the evidence of her aunt that if she was not seriously ill she would be travelling, as that is clearly her wish and her way of life. However, given her serious health issues, she would not be able to resume travelling. Under these circumstances, it is not possible to say that she has given up her nomadic way of life temporarily. Consequently, she does not fall within the current policy definition of Gypsies and Travellers.
8. The appellant proposes that the other occupiers of the site would be her children and (in the case of her two daughters) their families. The appellant’s two sons are aged 18 and 16. The 16-year-old is still technically a child and is a dependent of his mother. However, both young men travel with relatives and other members of the Irish Traveller community for work for several months every year, and as they become adults that is likely increasingly to become

¹ August 2015.

² My emphasis.

their way of life. I consider that they both fall within the definition of Gypsies and Travellers.

9. The appellant's two adult daughters both have their own families. Both of their husbands travel for work for up to half of each year, including travelling abroad. The two daughters, who also have childcare responsibilities, travel from time to time with their husbands, taking it in turns as they also provide care to the appellant. I consider that these two families, as well, fall within the definition of Gypsies and Travellers.
10. I am satisfied on the evidence that the appellant is dependent on her daughters for care, and that because of the interdependency of the various group members the family group should be regarded as a single unit. Even though the appellant herself does not fall within the definition, all the other members of the group do. For this reason, I consider that the description of the development as a "residential Gypsy and Traveller site" is correct. I shall consider the appeal on that basis.

Main Issues

11. The appeal site lies within the Metropolitan Green Belt. Consequently, the main issues are:
 - (1) Whether the development for which permission is sought constitutes inappropriate development in the Green Belt.
 - (2) The effect of the development on the openness of the Green Belt, and whether there is any other Green Belt harm.
 - (3) Whether the development is an unsustainable form of development by virtue of its impact on the environment and infrastructure of the area.
 - (4) Whether there are other material considerations that weigh in favour of permitting the development.
 - (5) Whether the other material considerations weighing in favour of the development clearly outweigh the harm to the Green Belt, and any other harm, so as to amount to the very special circumstances required to justify granting planning permission for the development for a temporary period of four years.

Reasons

Inappropriate development

12. There is no dispute between the Council and the appellant that the change of use of the appeal site to use as a Gypsy and Traveller site is inappropriate development in the Green Belt.
13. The material change of use of the building, which is of permanent and substantial construction, is not inappropriate provided that it preserves the openness of the Green Belt and does not conflict with the Green Belt purposes. Here, because the change of use is to a utility block in connection with the residential use of the remainder of the site, it would not preserve openness because of the effect of that change of use on openness, discussed below.
14. Paragraph 89 of the National Planning Policy Framework (the Framework) advises that the extension or alteration of a building which does not result in a

disproportionate addition over and above the size of the original building is not inappropriate in the Green Belt. Policy GB2A of the Epping Forest District Local Plan and Alterations, adopted in July 2006 (LP and Alterations), regards limited extensions to existing dwellings as being appropriate in the Green Belt, but not other extensions³. However this policy predates the Framework, and is consequently out of date.

15. The extension that has been constructed here is not disproportionate, and consequently that element of the development is not inappropriate in terms of current national policy, albeit that it conflicts with policy GB2A.

Effect of the development on the Green Belt

16. Inappropriate development is, by definition, harmful to the Green Belt. In addition, the siting of four residential caravans on this land would detract from openness, as would the parking of vehicles in connection with the use, and other domestic paraphernalia and outside activity resulting from the use.
17. The site was previously a nursery, and had sizeable glasshouses on it, which have now been demolished. However, horticulture and horticultural buildings are not inappropriate in the Green Belt. It is not a correct approach to compare the effect on openness of inappropriate development such as the use proposed here, with the effect of development which is not inappropriate. In any event, the glasshouses were demolished some six or seven years ago, and the site would now be open, apart from some fencing, were it not for the residential use.
18. The residential use of the appeal site would represent an encroachment into the countryside, thus conflicting with one of the purposes of the Green Belt.

Effect on environment and infrastructure

19. The use of the site for the siting of residential caravans and the residential use of the building has changed its character. Despite the absence of any more than glimpses into the site because of the boundary fence and the gradient of the land, it does appear from the road that there are residential uses on it. Although there is residential development along the same side of Hamlet Hill as the appeal site, that closest to the site is not particularly conspicuous, and the site has the feel of being beyond the village, albeit not in open countryside.
20. Whereas the former nursery use would not have appeared out of place in this location, the residential use appears somewhat out of place, and the introduction of four residential caravans would add to that. Having said that, however, little of the site is clearly visible from outside its boundaries, and there is residential development, albeit somewhat sporadic in feel, on either side of the site, and immediately adjoining it within the former nursery site. Any views from the public footpath to the south would be over a long distance. The site is well screened from public view and consequently the effect on the character and appearance of the area would be minimal.
21. The extension to the permanent building, which is not inappropriate development in the Green Belt, is barely perceptible from outside the site, being located behind the existing building and between it and a lawful building

³ Policy GB2A: "Planning permission will not be granted for the ... extension of existing buildings in the green belt unless it is appropriate in that it is ... (vii) a limited extension to an existing dwelling ..."

- also on the site. The extension by itself does not have a harmful effect on either the character or the appearance of the area.
22. With regard to infrastructure, the Council's concern is that there are a large number of Gypsy and Traveller sites in the immediate area, which they say have cumulatively added to the pressures on schools and doctors surgeries. These sites, and the appeal site, have been too small to make financial contributions towards the provision of additional infrastructure.
23. The Council says that they have come forward in an ad hoc fashion, whereas if they had come forward in a planned way, through the local plan process, there would have been planned infrastructure and contributions could be claimed through the community infrastructure levy. The Council also identified a perception amongst local residents that Gypsies and Travellers were being treated differently from other members of the local population.
24. It is clear that the District has a significantly high population of Gypsies and Travellers. The Council has been granting planning permission for sites for Gypsies and Travellers over the years, 50 additional pitches having been approved since 2008. It has not adopted a Community Infrastructure Levy Charging Schedule, and so it has no mechanism in place for contributions to be sought towards local infrastructure when planning permission for such development is granted. This is even though granting permission for sites on an ad hoc basis pursuant to policy H10A of the LP and Alterations is part of the Council's strategy for addressing the need for Gypsy and Traveller sites. Effectively, there appears to be an acceptance that sites for Gypsies and Travellers may be granted planning permission even though they have not made any contribution towards the provision of local infrastructure.
25. The Council says there is a distinct concentration of permanent pitches in Roydon and the adjoining parish of Nazeing, with these two parishes containing a large proportion of the District's permanent pitches. It is understandable that local residents should be concerned about the impact of new development on local infrastructure, and the planning system seeks through the local plan process to match new development with the necessary infrastructure. Any harmful impact on such infrastructure would be a material consideration.
26. However, no specific information has been put forward as to how this particular development has, or would in the future, harm local infrastructure provision. The occupiers of the site, who would be the appellant, her four children and the families of the two eldest children, have been living in the area for many years. The site is within a reasonable distance of shops, schools and other facilities. The children have attended local schools, and they are all registered with a local doctor's surgery. The highway authority has not raised any objections on highway grounds, the site is large enough to ensure that the caravans would not be in close proximity to residential properties and it is capable of providing an acceptable living environment.
27. There is no convincing evidence here of a significant impact, or indeed any impact, on schools, health facilities or any other local services or facilities as a result of this particular development. Nor, bearing in mind the constraints on development in the Green Belt, is there evidence that there would be a cumulative impact in the future. My conclusion is that, although there is a small harmful effect on the character of the area from the development, there is no clear evidence of a harmful impact on infrastructure.

28. The representations make some reference to antisocial behaviour on the site, but no detail is available as to when this happened or who was involved. There is no convincing evidence that if permission was granted for this proposal, that would result in antisocial activities. The appeal site and the adjoining land have a history of having been used for the unauthorised siting of caravans, and there are enforcement notices in force in respect of various unauthorised developments including the siting of caravans. However, that by itself does not weigh either for or against the development⁴. This would be a small-scale development, which would not dominate the nearest settled community, either by itself or together with other Gypsy and Traveller sites nearby.
29. Policy CP1 of the LP and Alterations, entitled "Achieving sustainable development objectives" requires planning powers to be used to avoid or minimise the impacts of development on the environment. It also requires the securing of provision of sufficient types and amounts of housing accommodation and different facilities to meet the needs of the local population. In this case, the development has and would have a minimal impact on the environment in terms of the effect on the character and appearance of the area. There would be no identifiable or quantifiable impact on infrastructure. The development secures the provision of accommodation to meet the needs of a member of the local population. I conclude that there is no conflict with that policy.
30. In addition, there would not be any conflict with saved policies CP2 or CP3 of the LP and Alterations. These policies require the quality of the rural environment to be maintained and development to be accommodated within the existing, committed or planned infrastructure of the area.

Other material considerations

Need for sites for Gypsies and Travellers

31. The Council accepts that it does not have a five-year deliverable supply of suitable sites for the travelling population. A Gypsy and Traveller accommodation assessment (GTAA) has been undertaken for the County of Essex together with the unitary areas of Southend-on-Sea and Thurrock.⁵ That has identified a current need in Epping Forest for 28 pitches, and a future need from 2013 to 2033 of 84 pitches, making 112 in total. The Council has yet to identify what a five-year target should be to meet this 20 year total. At present, 92 percent of the District is within the Green Belt, and the Council says that as a consequence future Traveller sites are likely to be located at least initially in the Green Belt.
32. Mr Hargreaves has submitted a critique of this document, suggesting that the GTAA almost certainly underestimates needs. He has not provided his own assessment of need, but another Inspector who has considered the GTAA viewed its approach to outward migration from London as questionable, suggesting the assessment is an under-estimate⁶. The recent change in the definition of Gypsies and Travellers in PPTS seems unlikely to have any

⁴ The planning policy to make intentional or unauthorised development a material consideration to be weighed in the determination of planning applications and appeals, introduced on 31 August 2015 in a written ministerial statement, only applies to new planning applications and appeals received from 31 August 2015, and not to this appeal.

⁵ Essex Gypsy and Traveller and Travelling Showpeople Accommodation Assessment of July 2014

⁶ APP/M1595/A/14/2217368.

material effect on the situation, given the level of unmet need already identified. On the evidence it is clear that there is a significant level of unmet need in the District, and that the GTAA figures may be an under-estimate.

Effectiveness of development plan policy in site provision

33. In September 2007 the then Secretary of State directed the Council to include a Gypsy and Traveller development plan document in its local development scheme. That did not result in a development plan document being adopted. The direction was revoked in July 2010, and the Council resolved to address the issue in its local plan. However no local plan has come forward to date.
34. The current timetable for submission of its local plan to the Secretary of State is September 2017, with adoption in the autumn of 2018. The Council's Gypsy Provision Information provided for this appeal sets out a number of options for addressing the need and identifying a five-year deliverable supply of sites. However, there appears to have been only limited progress in making provision for Gypsies and Travellers in its Local Plan.
35. It is clear that the Council faces significant difficulties in this task, including the large extent of Green Belt within the District, the numbers of Gypsies and Travellers for whom accommodation has to be made, and the shifting policy background against which it has to work. Nonetheless, despite the amount of work which the Council has clearly been putting into this exercise, I consider that there has been a failure over a considerable period of time to bring forward adequate site provision through the development plan process.

Personal circumstances

36. The medical evidence provided, which the Council does not dispute, shows that the appellant has serious health problems. She was unable to attend the hearing because she was in hospital receiving treatment at the time. Her state of health means that she requires facilities for her exclusive use, which would be provided in the utility block. She also suffers from stress because of her health and because of the uncertainty over where she can live, which exacerbates her other conditions. She has a daytime carer, and support from the district nurse. Her daughters also provide her with care.
37. The appellant's eldest son is 18 and attends college nearby several days a week. He also travels for work as indicated above, but he has health problems and receives disability living allowance. Because of his health problems, he would not be able to live by himself and is dependent on others in the family group or on those with whom he travels.
38. The appellant's second son is 16 and still a dependent child, although he too has started to travelling for work. He also attends college several days a week.
39. The appellant's elder daughter is married and has a young child who attends the local school. She had lived in the flat, but it had led to her suffering from depression and she had to give it up. She has spent a lot of time looking after her mother, which has led to tensions in her own family relationships.
40. The appellant's second daughter has a child who is not yet of school age, but who will begin attending a local nursery in the near future. Her partner is away travelling for much of the time. She does not have any other home. She helps support her mother and the family.

Other available accommodation

41. The appellant and her family do not have anywhere else to go. Local authority sites are full with waiting lists. The Council was not aware of any sites where the appellant could go. If required to leave the appeal site, the current occupiers would have to go onto the Council's housing waiting list. But that would only result in an offer of bricks and mortar housing, and it is not clear when any accommodation would become available. I am satisfied that would not be appropriate in these circumstances.
42. There are sites for touring caravans in the vicinity, but according to the Council these have planning conditions attached requiring them to be used for recreational purposes only. These would not be a viable option.
43. Mr Hargreaves said that living by the roadside would no longer be safe or possible for the appellant. Because of her medical situation, she needs heated accommodation and ready access to the facilities that would be provided in the utility block.

Human rights

44. There is an extant enforcement notice in respect of the site, prohibiting the use of the site for the stationing of mobile homes and caravans. A portable building on the site which at present appears to be used as living accommodation is also the subject of an extant enforcement notice. If the appeal is dismissed, then those living on the site will lose their homes. In addition, it seems unlikely that the extended family would be able to find anywhere to live as a family group. This would represent a serious interference with the occupiers' right to respect for their private and family life and their home under Article 8 of the European Convention on Human Rights.

Whether the other material considerations clearly outweigh the harm to the Green Belt, and any other harm, so as to justify granting a temporary planning permission

45. The harm to the Green Belt from the development is harm by way of inappropriateness, harm to openness and harm to one of the purposes of including the land within the Green Belt. Substantial weight should be attached to this harm⁷. There would also be some slight harm to the character and appearance of the area. I attach a small amount of weight to this consideration. There is no evidence of a harmful impact from the development on infrastructure. In respect of all the harm identified, because the proposal is only for a temporary period that harm would be limited in time. To a certain extent, that mitigates the harm identified, although the harm to the Green Belt would continue to attract substantial weight.
46. On the other side of the balance, there is a significant need both immediately and in the future for sites for Gypsies and Travellers in the District, and an acceptance by the Council that some of those sites are likely to be provided in the Green Belt. It is clearly in the interests of good planning that sites should come forward through the development plan process. However, in the case of Epping Forest, that is still some way off. The development plan process is not going to bring forward sites to address the immediate need and has failed to bring forward enough sites in the past.

⁷ Paragraph 88 of the Framework.

47. As far as the appellant herself is concerned, she does not currently fall within the definition of Gypsies and Travellers. However, she is an Irish Traveller by background and inclination, and culturally is not able to live in conventional housing without suffering adverse health effects. The public sector equality duty contained in the Equality Act 2010 applies, as the appellant's race is a protected characteristic. It is necessary to have due regard to her particular housing needs as an ethnic Irish Traveller.
48. There is no provision in the District for accommodation for ethnic Gypsies and Travellers falling outside the definition in PPTS, although there is a requirement in the Framework for local planning authorities to make provision for housing to meet the needs of different groups in the community. The Council does not argue that there is alternative accommodation available to meet the appellant's needs. I attach significant weight to the absence of any accommodation suitable for the appellant, and to the fact that the local plan process is not likely to bring forward any suitable sites within the near future.
49. I attach substantial weight to the personal circumstances of the appellant herself, and particularly to her severe ill-health, which would only be exacerbated by her living in conventional housing. She has nowhere else to go, and the evidence is that in her present state of health she would not be able to live a travelling lifestyle camping on the roadside. She also has a need for the support currently being given to her by her daughters.
50. With respect to the remaining proposed occupiers of the site, I attach moderate weight to their personal circumstances. I also attach moderate weight to the best interests of the children on the site, which would clearly be served by their having a settled home where they had access to health and educational facilities, as they do from the appeal site.
51. PPTS advises that, subject to the best interests of the child, personal circumstances and unmet need for Traveller sites are unlikely clearly to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. In this case, were it not for the personal circumstances of the appellant herself, the harm to the Green Belt would not be clearly outweighed by the other considerations. However, the guidance clearly envisages some, albeit rare, circumstances where personal circumstances and unmet need would be such as to establish very special circumstances.
52. In this case, I consider that the appellant's own personal circumstances do tip the balance sufficiently so that the other considerations here, taken together, clearly outweigh the harm from the occupation of the site by this family group. This is because of the care being provided by the family to the appellant, without which she would have extreme difficulty in coping. I have taken into account that a relative and her family occupy a dwelling immediately adjoining the appeal site. However, the appellant is being cared for by her daughters and there is no evidence that any more distant relatives would either be able or willing to take on those caring responsibilities.
53. The Council has expressed concern that, if planning permission is granted here, a precedent might be caused in respect of other sites which would make it difficult for the Council to resist granting permission. However, inappropriate development in the Green Belt should only be permitted if there are very special circumstances, and national guidance makes it clear that personal circumstances are unlikely by themselves to outweigh the harm to the Green

- Belt. Granting permission here would not hamper the Council in future cases from reaching a conclusion as to whether very special circumstances existed, based on the facts of those particular cases.
54. There have been objections to the development from local residents, the Parish Council and the Roydon Society. But there is no convincing evidence that community cohesion would be materially harmed if permission were to be granted for a temporary period.
55. Concern has also been expressed at the perception that Gypsies and Travellers are treated differently from members of the settled population. National planning policy recognises and provides specific advice on the provision of accommodation for Gypsies and Travellers, as does policy H10A of the LP and Alterations. National policy also requires the provision of housing to meet the needs of all sections of the population. That policy background is the framework within which a decision must be made. No inappropriate development, whoever it is by, should be permitted in the Green Belt without very special circumstances being shown. This rule applies to all sections of the community.
56. I conclude that very special circumstances have been demonstrated, and that granting planning permission for the appeal development for a temporary period of four years would accord with Policy H10A. This requires the Council, when determining planning applications for gypsy caravan sites within the Green Belt, to have regard to whether there are any special circumstances justifying an exception to the Green Belt restraint policies, and the impact on the openness of the Green Belt and the character and appearance of the countryside.
57. As the development would accord with Policy H10A, there would be no conflict with policy GB2A of the LP and Alterations, which provides that planning permission will not be granted for the use of land unless, among other matters, it is in accordance with another Green Belt policy. It is not clear that Policy GB5 of the LP and Alterations, which requires permission to be refused within the Green Belt for mobile homes and caravans, is relevant in this situation given the provisions of policy H10A. There would be no breach of Policy GB7A of the LP and Alterations because the development would not be conspicuous from within or beyond the Green Belt and would not have an excessive adverse impact upon its openness, rural character or visual amenities.

Conditions

58. Conditions are necessary to restrict the occupation of the site to the appellant and named members of her family and to limit the permission to a four-year period, and requiring the use to cease when the site ceases to be occupied by those named persons or at the end of the four-year period. This is because permission is only justified on the grounds of the personal circumstances of the appellant and her need to be cared for by family members, and to allow sites to come forward through the local plan process.
59. Conditions are also needed in order to limit the number of caravans to be stationed on the site, to restrict the size of vehicles which may be kept on the site, and to prevent any commercial activities. This is in order to limit the harm to openness and amenity caused by the development.

60. A condition is also required providing a strict timetable for dealing with foul and surface water drainage, proposed and existing external lighting and the internal layout of the site, all of which matters need to be addressed in order to make the development acceptable. The condition is drafted in this form because the development has already taken place and it is not possible to impose a condition preventing the development from commencing before all of these matters are resolved and provided. The condition therefore provides for the loss of the benefit of the planning permission if the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in accordance with the strict timetable, then the planning permission would no longer be implementable.
61. A condition requiring the development to be carried out in accordance with the approved plans would not be appropriate. This is because the development has already been carried out.
62. The Council proposed a condition addressing potential contamination of the site. This is because, according to the officer report to Council members, the previous uses of the site are potentially contaminating. The appellant submitted a contamination report in support of the application, which had been prepared in respect of another part of the former nursery site, adjacent to the appeal site. This appears to be a desktop study only, and does not acknowledge (or indeed discuss in any detail) the previous uses of the site or their potential for contamination.
63. Under these circumstances, and bearing in mind the best interests of the children living on the site, who are particularly vulnerable to the effect of contamination, it is necessary to require a scheme for a durable impermeable material to be provided beneath the caravans or mobile homes. A condition is also necessary to prevent any skirting or other obstruction to be placed around the base of the caravans or any materials stored beneath them that could prevent good airflow. These requirements are needed in order to prevent the occupiers of the site from being affected by any gases rising from the ground as a result of any contamination, as the caravans are likely to be sited where the former glasshouses stood.
64. I am not satisfied that it is necessary or reasonable to require the utility building, which is not sited where the glasshouses were, to be modified to address the possibility of contamination, or restrictions be placed on the water supply. This is because of the absence of any clear evidence as to the extent of any potential contamination, and the lack of evidence that the water supply might be subject to contamination.

Overall conclusions

65. For the reasons given above I conclude that the appeal should be allowed.

Sara Morgan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Michael Hargreaves	Michael Hargreaves Planning
Mrs Josie O'Driscoll	Aunt of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Jill Shingler	Epping Forest District Council
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INTERESTED PERSONS:

Mrs Pepper	Local resident
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DOCUMENTS

- 1 Appeal decision APP/J1535/C/10/2123144 Rose Farm, Hamlet Hill, Roydon handed in by the appellant
- 2 Appeal decision APP/J1535/A/13/2190055 Ashview, Hamlet Hill, Roydon handed in by the appellant