

APPEAL BY MR THOMAS MAUGHAN AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO VARY CONDITION OF PLANNING PERMISSION N21428 FOR USE OF MOBILE HOME AS DWELLING AT 5 BOGGS COTTAGES, KEELE ROAD, KEELE

<u>Application Number</u>	16/00969/FUL
<u>LPA's Decision</u>	Refused by Committee 4th January 2017
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	05 January 2018

The appeal decision

The full text of the appeal decision is available to view via the following link
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/16/00969/FUL>

Permission was granted on appeal in 1986 for the siting of a mobile home on the appeal site subject to a condition that the permission shall enure for the benefit of Mr Leonard Edwards only and any relatives or dependents living with him. Planning permission was subsequently granted for use of a mobile home as a dwelling house at the site, incorporating additional land and a larger mobile home, in 1996 subject to the same condition. The application, the refusal of which was appealed, sought to vary the condition to allow the occupation of the mobile home by Thomas Maughan, Eileen McDonagh and their resident dependents.

The Inspector considered that the main issues in this case was whether the condition is necessary and reasonable

In dismissing the appeal, the Inspector made the following comments:

Green Belt

- The proposal would not meet any of the exceptions in the NPPF and would be inappropriate development for the purposes of national Green Belt policy as set out in paragraph 89. This harm attracts substantial weight as set out at paragraph 88 of the Framework.
- In 1986 the Inspector found that the permanent use of a mobile home as a dwelling would result in demonstrable harm to the character of the area and to the effectiveness of the Green Belt. The decision must address any harm that the proposed change to the disputed condition, might bring about.
- Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. The proposal concerns a change in occupiers of the appeal site and since a personal permission is sought, would not result in the creation of a permanent dwelling. The mobile home is tied to Mr Edward's lifespan and the appeal proposal would considerably extend the period of occupation of the appeal site.
- The proposal would also alter the intensity of the occupation of the site as Mr and Mrs Edwards no longer lived at the appeal site and the appeal proposal would see the occupation of the site by a family of six. Whilst Mr and Mrs Edwards could recommence their day to day occupation of the appeal site in future the Inspector was not convinced that the likelihood of this was great.
- The residential use of the appeal site has had an urbanising effect that is harmful to the openness and purposes of the Green belt. In this context, both in terms of the length and nature of the occupancy of the site that would result, the variation of the disputed condition as sought, would fail to prevent encroachment and have a detrimental impact on the openness and one of the purposes of the Green Belt. In the Inspectors view it would lead to additional harm in these regards over and above the permitted situation.
- The disputed condition does not require the removal of the mobile home or the restoration of the site in the event that Mr Edwards is no longer occupying the site.

Regard was given to the appellant's suggestion that additional conditions could be imposed to ensure the removal of the existing mobile home, garage and hardstanding removed within an acceptable timeframe. The appellant was willing to accept conditions to limit the number of caravans etc.

- Despite the wording of the condition the Inspector in 1986 anticipated that the temporary period of that permission would at some stage end, such that the harm caused to the Green Belt would cease.
- The Inspector could see no reason why the Council would not have powers to remove the mobile home from the site once Mr Edwards has ceased to occupy it. Future action to remove the garage and hardstanding could not be ruled out. Additionally the Inspector saw nothing to suggest that the siting of further caravans on the site etc. has occurred in the past or would be likely to take place in the future under Mr Edwards' occupancy.
- As such the Inspector was not persuaded that the imposition of these conditions would necessarily give rise to tangible overall benefits in terms of the openness and purposes of the Green Belt that would offset the additional harm that would be caused by the proposal in these regards.
- In isolation, the harm that would be caused to the openness of the Green Belt and encroachment into the countryside by allowing the appellant and his family to occupy the site would be limited. Nevertheless, the proposal would fail to prevent encroachment and have a detrimental impact on the openness and one of the purposes of the Greenbelt. This harm still attracts substantial weight as set out at paragraph 88 of the NPPF. Since the proposal would fail to preserve the openness of the area it would also be contrary to Local Plan policy S3.

Other Considerations

- According to paragraph 87 of the NPPF inappropriate development is by definition harmful to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- There is unmet need for and supply of gypsy sites in the Borough, including the lack of a 5 year supply of deliverable sites, which adds significant weight in favour of the appeal scheme.
- Significant weight was also given by the Inspector to the lack of any reasonable alternative accommodation for the appellant and his family.
- The Inspector appreciated why the appellant wanted to avoid the Blackburn area where he and his family originate from. In addition the Inspector heard about the difficulties of looking after a family, including a baby, from the unauthorised roadside sites that they have been using. However, the Inspector was not convinced that the appeal site is the only site that would achieve better living conditions and more consistent school attendance for the children and did not find such personal circumstances compelling. They only added a modest amount of weight in favour of the proposal.
- The Inspector found that the proposal would cause substantial harm to the Green Belt, and was satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect Green Belts in the wider public interest, could only be adequately safeguarded by the refusal of permission. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, the Inspector considered that the adviser impacts of dismissing the scheme on the appellant and his family are necessary and proportionate. As such the very special circumstances necessary to justify the development do not exist.

Recommendation

That the appeal decision be noted and a report be brought before the Planning Committee on the outstanding breach of the Enforcement Notice.