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Standing up for Hertfordshire's countryside

Lee Stannard
Planning and Building Control
St. Albans City and District Council
St. Peter's Street
St. Albans
Herts AL1 3JE

Our Ref:

Your Ref:

1st July 2020 (by email)

Dear Mr. Stannard,

Application No. 5/2020/1124

Change of use of land to residential for gypsy traveller families and stationing of four static and four touring caravans with associated hardstanding, parking and related plant and infrastructure On Land Adjacent The Mill House, Coursers Road, Colney Heath, Hertfordshire AL4 0PB

CPRE Hertfordshire objects to this application for inappropriate development in the Green Belt, contrary to the National Planning Policy Framework, the St. Albans Local Plan and the National Planning Policy for Gypsy and Traveller sites.

Though this application is described as seeking a change of use of land to residential, this is in fact a retrospective application as, from our own observation, the site has already been changed from grazing land to hardstanding and the caravans are in situ. The fact that the applicant has purchased the land and improperly placed residential units on the site does not negate its current designation as agricultural land.

The application site was open grazing land bounded by trees on its boundaries. It is immediately adjacent to Colney Heath Common Nature Reserve and Heritage site. Despite fencing along Coursers Road, the entire site is clearly seen from the road. Consequently the proposed development would constitute a residential enclave in this open landscape. As such it would cause significant harm to the visual amenity and landscape character. The proposal would be at odds with the rural character and appearance of the wider area, and would have a detrimental impact on the openness of the countryside in this location.

The National Planning Policy for Gypsy and Traveller sites specifically restricts the circumstances in which permission for Gypsy sites may be given in the Green Belt. It also states that, where it can be demonstrated that the applicants have given up travelling permanently, then applications for planning permission should be considered as they are for the settled communities within the National Planning Policy Framework. It is not clear from the application documents whether or not the applicants have given up travelling

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CPRE Hertfordshire is a Charitable Incorporated Organisation

President: Sir Simon Bowes Lyon, KCVO
Chairman: Richard Bullen

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permanently. The Design and Access Statement says that the family maintain a gypsy lifestyle and travel often, though currently Coronavirus makes travel difficult. That does not suggest permanency.

As the application meets none of the exception criteria in NPPF para. 145 or St Albans Local Plan Policy S3, constitutes inappropriate development under Policy E of the National Planning Policy For Gypsy and Travellers Sites and clearly results in harm to the openness of the Green Belt and encroachment into the countryside, the applicant is required to demonstrate 'very special circumstances' sufficient to out-weigh the harm by virtue of inappropriateness, or other harm, to the Green Belt. Though the Design and Access Statement provides no specific very special circumstances, the conclusion presents a number of bullet points which may be intended as such:

(1) There is a lack of available sites in the area.

We are conscious of the fact that there is a lack of traveller provision in the District as a whole. However, having said that, there are currently 26 pitches in Colney Heath on four sites (Barley Mow, Little Orchard, Nuckies Farm and The Paddock.) Policy E of the National Planning Policy For Gypsy and Travellers Sites, is clear: *"Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."* We are also aware that the Council is currently developing a comprehensive strategy for dealing with the issue of Gypsy and Traveller provision through Policy L7 in the emerging Local Plan. Consequently it would be premature to deal with applications such as this on an ad-hoc basis.

(2) Lack of a 5-year supply of land.

The National Planning Policy For Gypsy and Travellers Sites state that for sites in land designated as Green Belt the absence of an up to date five year supply of deliverable sites is no longer a significant material consideration.

(3) The Need of the family to access healthcare and education.

This is not the most appropriate location to do so. There is currently no surgery in Colney Heath. The nearest health facilities are in Hatfield. There is no secondary school, the nearest are in St. Albans and Hatfield. There are no buses from Colney Heath to Hatfield and only one bus to St. Albans four times a day (Metroline 305). It is insufficient simply to state that *'It is important that the family has a stable place to live so they can access healthcare and education.'*



(4) The family qualify for gypsy status

(5) The 'Chapman' decision gives Gypsies the right to culturally appropriate accommodation and

(6) The human rights of the family.

These can be taken together.

In assessing the planning balance the Council will have to take into account the case law determined in EWHC 3660(2012) *AZ v. Secretary of State and South Gloucestershire D.C.* That judgement held that in determining applications for gypsy and traveller caravan sites the Council should give significant weight to the needs of the children involved under Article 8 of the Human Rights Act. As we are not party to the assessment of those needs, and they are not referred to in the application, we cannot comment on the merits of that aspect of this particular application. The inspector in the case of *Tullochside Farm, St. Albans*, (Appeal Decision APP/B1930/A/09/2113116) held that while giving the Green Belt precedence *"does involve some interference in the rights of occupiers under Article 8 of the European Convention on Human Rights, this does not amount to a violation of those rights, having regard to the test of proportionality and the importance which is properly attached to the protection of the Green Belt and the environment."*

There is no evidence included with the application to demonstrate that the applicants have been actively attempting to find alternative sites. There is no detailed information about the need to live or work locally nor any other specific need of the family. The actual structure of the family is not stated and the ages and needs of any children detailed. The Council will have to fully satisfy itself on these points before determining the application.

The site is immediately adjacent to Mill House which is a Grade II listed building. The development will harm its setting. NPPF para. 194 requires that *"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."* No justification, or even acknowledgement of the heritage implications, is included with the application.

As this is a change of use from agricultural land to residential, the NPPF advises that the presence of best and most versatile agricultural land (defined as grades 1, 2 and 3a of the Agricultural Land Classification) should be taken into account alongside other sustainability considerations when determining the application. Development should not be permitted on these grades of land unless opportunities have been assessed for accommodating the development on previously developed sites or on land within the boundaries of existing urban areas. The application does not include reference to the agricultural grade of the land, nor does it provide an assessment of alternative sites. As the agricultural land around Colney Heath is predominantly a mixture of Grades 3a and 3b the Council will have to satisfy itself of the grade status of this site before authorising a change of use.



Coursers Road is an unlit country lane with no footways with an unrestricted speed limit. As the application form acknowledges, the access to the site is over land which is not in the ownership of the applicant, but is highway land owned by Hertfordshire County Council. Consequently HCC's approval will be necessary before this application can be determined. An application for a certificate of lawfulness for the access (5/2019/2726) was refused in November 2019. The land is also part of Colney Heath Common, which is managed by Colney Heath Parish Council and it is likely that their permission is required before access can be approved.

For the reasons stated above we urge the Council to reject this application.

Yours sincerely,

David Irving