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## Appeal Decision

Site visit made on 17 August 2011

by Mrs K.A. Ellison BA, MPhil, MRTPI

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

Decision date: 20 September 2011

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**Appeal Ref: APP/N1350/A/11/2153205**

**Little Beck, Burma Road, Darlington, Co Durham DL2 1QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Messrs G & T Smith against the decision of Darlington Borough Council.
  - The application Ref 10/00059/FUL, dated 29 April 2010, was approved on 4 January 2011 and planning permission was granted subject to conditions.
  - The development permitted is a private gypsy site to provide pitches for 2 residential caravans and 2 touring caravans, alterations to access, provision of utility building, timber fencing and field shelter and use of land for equestrian purposes.
  - The condition in dispute is No 5 which states: *This permission shall be for a limited period expiring on 19 November 2013 when the use shall cease and the caravans and works removed and the land restored to its previous use for agricultural purposes.*
  - The reason given for the condition is: *the local planning authority would wish to review the permission at the end of the period in the light of the operation of the use.*
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### Decision

1. The appeal is allowed. The planning permission Ref 10/00059/FUL for a private gypsy site to provide pitches for 2 residential caravans and 2 touring caravans, alterations to access, provision of utility building, timber fencing and field shelter and use of land for equestrian purposes at Little Beck, Burma Road Darlington granted on 4 January 2011 by Darlington Borough Council, is varied by deleting condition No. 5.

### Costs

2. An application for costs was made by Messrs G & T Smith and is the subject of a separate decision.

### Main Issue

3. The Council states that this location is inappropriate for a permanent site because of the harm it causes to the countryside. However, it granted a temporary permission owing to the lack of alternative sites and in the expectation that acceptable sites would come forward through the plan making process. The main issue in this appeal therefore, is whether the disputed condition is reasonable and necessary, having regard to local and national policies for the protection of the countryside and the provision of gypsy sites.

## Reasons

4. The appeal site is some 0.7ha in size and is located in open countryside. Although there is a small industrial area nearby, the surrounding landscape is predominantly one of agricultural fields and hedgerows. The Council describes the proposal as a sporadic form of development which is apparent from the roadside. From this I take it that, essentially, the harm is seen to arise from the buildings and structures associated with the proposal, rather than the use of the land for equestrian purposes.
5. The caravan pitches and utility building are situated in the north western corner of the site, with the remainder being given over to equestrian use. In an earlier appeal concerning a stable block<sup>1</sup>, the Inspector commented that the building then proposed would impair the character and appearance of the countryside. However, that decision is of limited relevance to this scheme, where the caravans and buildings are located on a different part of the site. Being more discreet, they do not appear as isolated structures in the midst of open fields, as the earlier proposal was said to do. Rather, they are well-contained, being reasonably well-screened by the hedges and close boarded fence which form the boundary to this part of the site. As such, although they are visible at certain points from the roadside, they are not prominent in the wider landscape and do not encroach into the wider countryside. It is also of some relevance that the site is part of a former brickworks and is within an area of poor landscape quality where improvements are sought under Local Plan policy E17. In this regard, the Committee Report refers to proposals to fill the gaps in the hedgerows and carry out new planting, and these would also represent a general improvement to the immediate area.
6. At the time of the Council's decision, Local Plan policy H21 set out various criteria for gypsy sites, including that they should not encroach on open countryside, should not be prominent and the occupied part of the site should be adequately screened. The appeal proposal satisfies those requirements. In addition, Circular 01/2006 advises that rural settings, where not subject to special planning constraints, are acceptable in principle. As the site would have been acceptable under the terms of local and national policies in force at the time, the disputed condition would have been unreasonable, irrespective of the expectation that alternative sites might come forward through the plan making process.
7. Although policy H21 has now been replaced by Core Strategy policy CS13, the proposal would accord with that policy, insofar as it would not have an unacceptable impact on landscape character. Also, in the period since planning permission was granted, a consultation document entitled *Planning for Traveller Sites* has been published, as well as the draft *National Planning Policy Framework*. However, these are still at an early stage so that little weight can be attributed to them. In addition, the Secretary of State has announced his intention to revoke Circular 01/2006 as he considers it to be flawed. Whilst this affects the weight to be attached to that policy, the advice in Circular 11/95, *The Use of Conditions in Planning Permissions* remains in force, that conditions should not be imposed unless they are necessary.

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<sup>1</sup> APP/N1350/A/09/2099680 dated 7 July 2009

## Conclusions

8. The proposal would not cause harm to the surrounding countryside and the use of the appeal site as a private gypsy site is in accordance with the aims of Local Plan policy H21, as well as Core Strategy policy CS13 which is now in force. As the disputed condition is not necessary to make the development acceptable, it does not accord with the advice in Circular 11/95 and should be deleted.
9. For the reasons given above, I conclude that the appeal should succeed.

*K.A. Ellison*

Inspector

