

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 15 February 2011

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APPLICATION REF. NO:	11/00633/CU
STATUTORY DECISION DATE:	17/11/11
WARD/PARISH:	Sadberge and Whessoe /Brafferton
LOCATION:	Shalter's Bridge, Lime Lane Brafferton
DESCRIPTION:	Change of use to Residential site for one Gypsy family, including one mobile home, two touring caravans and one utility block.
APPLICANT:	Mr R Flannigan

APPLICATION AND SITE DESCRIPTION

This proposal relates to the following development:-

The retention of a mobile home to be occupied by a single gypsy family, the siting of two touring caravans, the erection of a utility block and the mixed use of the site for residential gypsy accommodation and equestrian use. There is an existing, recently renovated stable block on site which has the benefit of lawful use in planning terms, as has the use of the land for keeping horses.

The existing site is laid out with hardcore and is surrounded by a 2 metre high timber fence including entrance gates. There is a small block retaining wall at the southern end of the site where it adjoins the East Coast Main Railway line. These developments are not included within the planning application under consideration.

A paddock adjoins this land to the north which is used for grazing horses and sheep.

Besides the railway line adjoining the site, an access road to a quarry runs to the east of the site, the River Skerne runs along the northern edge of the paddock and a telecommunications mast compound lies just to the south.

PLANNING HISTORY

08/00117/CU – Change of use from agricultural to keeping of competition horses and stationing of residential caravan – Refused permission May 2008.

PLANNING POLICY BACKGROUND

The relevant planning policy framework for considering this application is as follows:

- Government (ODPM) Circular 01/06: Planning for Gypsy and Traveller Caravan Sites
- Policy 30 of the Regional Spatial Strategy, published in July 2008
- Core Strategy Policy CS13

Circular 01/06 is an over arching guidance document relating to the location and needs of gypsies. Part of that guidance states :

Sites on the outskirts of built-up areas may be appropriate. Sites may also be found in rural or semi-rural settings. Rural settings, where not subject to special planning constraints, are acceptable in principle. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of, and not dominate the nearest settled community. They should also avoid placing an undue pressure on local infrastructure

The North East RSS gave a broad indication of where additional Gypsy sites needed to be and this was reinforced by later work in The Tees Valley Gypsy and Traveller Accommodation Needs Assessment which was published in 2009 and forms part of the evidence base for the Core Strategy. This reinforces the opinion that there is an unmet need for more Gypsy pitches in the Darlington Borough area. This is accepted by this Council.

Darlington Local Development Framework Policy CS13 (Accommodating Travelling Groups) is relevant in the determination of this application. This policy sets out criteria against which applications for planning permission and sites for eventual allocation as gypsy sites should be considered. The policy indicates :

Provision will be made for travelling groups at the existing sites of Honeypot Lane, Neasham Road and other small sites within the Borough. Where required, additional sites for Gypsies and Travellers and Travelling Showpeople will be allocated in accordance with the following criteria, which will also be the basis for determination of windfall sites, ensuring that sites:

- a) have appropriate access, and are in a sustainable location for schools, shops, employment opportunities and other local facilities and services; and*
- b) are located and designed so as not to have an unacceptable negative impact on existing residential amenity or existing landscape character; and*
- c) are appropriate to provide a safe and healthy environment for residents; and*
- d) are located in areas not at risk from flooding; and*
- e) are located and designed so as not to have a significant negative impact on the natural, archaeological or historic environment.*

Preference will be given firstly to locations within and then adjacent to existing settlements, and then to the re-use of brownfield land in other locations.

RESULTS OF CONSULTATION AND PUBLICITY

A site notice was posted and local residents consulted.

At the time of drafting eight letters of objection have been received raising the following issues:

- Gypsies should not be allowed to flout the planning rules.
- Approach to the village spoilt by sheds and portable homes in open fields.
- Visually intrusive in the landscape.
- Existing boundary fence is unattractive.
- Previous refusal on this site.
- Use is damaging to wildlife.

Comments from consultees are as follows :

CPRE – Considers that permission should not be granted on a piecemeal basis and that a formal planning policy should be created. A temporary permission should only be given until the policy is in place. A precedent will be set for other sites if approved.

Environment Agency – No objection to additional information on site drainage.

Environmental Health – No objections but requests conditions are imposed on any permission granted.

Highways Engineer – No objections subject to conditions.

Northumbrian Water – No objections.

Parish Council – Object as the proposal will be an visually intrusive on the approaches to the village, and a prominent feature in the open countryside.

Network Rail – No objections providing certain safeguards are put in place to prevent damage to the ECML and nearby railway land.

UK Association of Gypsy Women – Have supplied information confirming the Gypsy Status of the applicant and support the application bearing in mind the associations the family has with Darlington.

PLANNING ISSUES

The main planning issue relating to this proposal is whether it complies with the relevant planning policy for such development, which in this case is policy CS13 of the approved Core Strategy, as detailed above.

In helping to assess the proposal, the recent appeal decisions for single Gypsy plots on land to the south of this site are a material planning consideration.

The Inspectors' concluded that the sites complied with all of the criteria of the Core Strategy policy CS13 with the exception of visual and landscape impact. In particular the location of the sites were seen to be acceptable in terms of accessibility to services such as doctors etc, bearing in mind Circular 01/06 paragraph 54 which states that : *“local authorities should be realistic*

about the availability or likely availability of alternatives to the car in assessing local services “. It is considered therefore that the current site is similarly acceptable and that criteria A above is met.

Criteria C and D above, namely the suitability of the site in terms of a safe and healthy environment for residents and flood risk are considered to be satisfied by the proposal taking into account that no objections have been received from the Highways Engineer, the Environmental Health Officer or the Environment Agency.

The only criteria where the proposal may conflict are B and E in relation to the impact of the proposal on landscape character/natural environment. Again with reference to the nearby appeal decisions, the Inspectors concluded that the sites were not well screened from a number of viewpoints and that the prominent views would be possible in some instances. One appeal was dismissed on visual impact grounds and the other varied to reduce the visual impact.

Clearly visual impact is an important issue in this locality and officers consider that the current proposal should stand or fall on this issue.

The proposed mobile home, utility block and caravans will be located behind the substantial roadside hedge and boundary fence, reducing their visual impact from Lime Lane. Perusal of the photographs and a site visit reveal that the existing authorised stable block and other structures on site are concealed from public view from all but approaches from the west. Some additional landscaping would reduce this visual impact.

Furthermore, seen from the west the site is not considered to be prominent in any long distance views of the wider landscape as it is contained by the immediately adjacent railway embankment. It is also considered to be material that other nearby man-made structures including electricity pylons and a telecommunication mast immediately to the south help assimilate the site within its surroundings. The land is not formally designated as being of ecological or landscape significance.

The fence, gates and retaining wall are considered to be acceptable in principle in visual amenity terms, though it is considered that the prominence of the boundary fence could be reduced through staining it with a suitably subdued colour. This could be achieved through suitably worded planing condition.

Therefore it is considered that whilst there will be some visual impact the development would not cause an unacceptable negative impact on the landscape character or the natural environment. The site is therefore considered to comply with criteria B and E of the policy CS13.

In addition Polciy CS13 states that :

Preference will be given firstly to locations within and then adjacent to existing settlements, and then to the re-use of brownfield land in other locations.

Whilst the site is neither adjacent to an existing settlement or a brownfield, previously developed site, as *preferred* by Policy CS13, it does have an established use for horse grazing in association with a stable building and is considered to meet the various assessment criteria (A-E) within the policy. As previously stated it is also necessary to take into account relevant planning guidance in the Government's Circular 01/06 which states that rural settings, where not subject to special planning constraints, are acceptable in principle.

In assessing the suitability of the site for Gypsy accommodation, the policy considerations above must be taken into account along with other material planning considerations, These are seen as :

- The current lack of availability of permanent pitches elsewhere in the Borough. It is acknowledged that there is a need for additional gypsy and traveller pitches and the Council is now working towards agreeing on the level of local need, and selecting and consulting on specific sites, with the next stage of formal consultation to be the Preferred Options in late Spring / early Summer 2012, with formal adoption anticipated in July 2013.
- The previous refusal of planning permission for residential development referred to above was not for a Gypsy family and as such was subject to a different range of policy tests.

In conclusion therefore it is considered that the development is acceptable in this location.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

RECOMMENDATION

That Planning Permission be granted with the following conditions:

1. A3 – Time limit
2. B5 – Approved plans
3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
REASON – In order that the development complies with the Darlington Local Development Framework Core Strategy.
4. No commercial activities shall take place on the land, including the storage of materials.
REASON – In the interests of the character of the locality.
5. No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time.
REASON – In the interests of the character of the locality.
6. There shall be no more than 1 pitch on the site, occupied by one family.
REASON – In the interests of the character of the locality.
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) and (ii) below:

- i). Within 3 months of the date of this decision a scheme for: the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; the internal layout of the site, including the siting of caravans, hardstanding, access roads, parking and amenity areas together with external treatment of existing boundary fencing and gates; and tree, hedge and shrub planting, and cutting back at the site entrance, including details of species, plant sizes and proposed numbers and densities; (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) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

REASON - In the interests of the character of the locality, visual amenity and highway safety.

8. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

REASON – In the interests of the character of the locality.

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The decision to grant planning permission has been taken having regard to the policies and guidance contained within

- Government (ODPM) Circular 01/06: Planning for Gypsy and Traveller Caravan Sites
- Policy 30 of the Regional Spatial Strategy, published in July 2008
- Core Strategy Policy CS13

There are not considered to be any counter material considerations that outweigh these policy considerations.

INFORMATIVES

The applicant is advised that works are required within the public highway, at widened existing access, and contact must be made with the Assistant Director : Highways, Design and Projects (contact Mr.A.Ward 01325 388743) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works.