

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 17 November 2010

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APPLICATION REF. NO: 10/00059/FUL

STATUTORY DECISION DATE: 29 June 2010

WARD/PARISH: HURWORTH

LOCATION: Little Beck, Burma Road, Hurworth Moor

DESCRIPTION: Provision of 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 (Retrospective Application).

APPLICANT: G & T Smith

APPLICATION AND SITE DESCRIPTION

The application site is situated at the junction of Neasham Road and Burma Road, approximately midway between the town and the villages of Neasham and Hurworth. It comprises an area of land of approximately 0.7hectares and was previously part of the former Skipbridge brickworks site. Most of the site consists of poor grassland. The north western corner of the site is covered in road planings. A small stream runs through part of the site. Established hedgerows are present along the north eastern boundary adjacent to Burma Road and the south western boundary alongside Neasham Road. However, this is intermittent in parts, particular near the junction of Burma Road with Neasham Road which comprises a section of recently erected close boarded fencing approximately 2m in height. Again the hedgerow along Neasham Road becomes sparser towards the southern end of the site. The remaining boundaries of the site comprise timber and rail fencing. The southern part of the site lies opposite a motor vehicle salvage yard, County Valley Foods and a dwelling house. Approximately 260m to the south is a complex of industrial buildings, and a range of former farm buildings (Brickyard Farm) under conversion to residential use.

The proposal seeks retrospective planning permission for the use of land in connection with the provision of a gypsy site and equestrian purposes.

In detail the proposal involves the siting of 2 residential caravans, 2 touring caravans and a utility building in the north western corner of the site adjacent to the Burma Road / Neasham Road junction. The proposed field shelter is situated to the south of the caravans and utility building and is constructed of green stained timber cladding walls with profiled sheeted roof.

The remainder of the site is proposed for equestrian use in connection with the requirements of the gypsy families who would occupy the site.

Vehicular access to the site is achieved via an existing but modified access off Burma Road.

The application is accompanied by information to support the applicants claim to gypsy status.

PLANNING HISTORY

08/00671 – In October 2008 planning permission was refused for the erection of a stable building comprising 3 stables, tack room and feed store for the following reason: -

The proposed development is considered to be a sporadic form of development that by reason of its size, design and siting, would have a harmful impact on the character and appearance of the open countryside and would thereby conflict with Policy E4 (New Buildings in the Countryside), Policy E7(Landscape Conservation), Policy E29 (The Setting of New Development) and Policy R15 (Horse-related Development) of the Borough of Darlington Local Plan) and National Guidance contained within PPS1:Delivering Sustainable Development(2005) and PPS7: Sustainable Development in Rural Areas (2004). The proposal fails to provide a safe access and satisfactory visibility and would be prejudicial to highway safety, contrary to Policy TI3 (New Development –Standards) of the Borough of Darlington Local Plan 1997.

The application was subsequently dismissed on appeal in April 2009.

PLANNING POLICY BACKGROUND

Saved Policies of the Borough of Darlington Local Plan:

E2 – Development Limits
E17 – Landscape Improvement
H21- Additional Gypsy Sites
R15- Horse Related Development
T24 –Parking and Servicing Requirements for New Development

National Planning Policy

Planning Policy Statement (PPS) 7: Sustainable Development in Rural Areas
ODPM Circular 01/2006 –Planning for Gypsy and Traveller Sites

RESULTS OF CONSULTATION AND PUBLICITY

Six letters of objection have been received from local residents and the following comments have been made: -

- Occupancy commenced on the site before any planning applications were submitted or granted and still preceded after several visits by the planning enforcement officer. Taking this into consideration will the applicant after already showing a disregard for the Borough Council procedures and protocol respect any planning restriction imposed on the site if permission is granted.

- The people who live in this area do not want a gypsy camp at the entrance to their homes.
- The proposal is totally inappropriate for this area and will have a damaging impact on neighbouring properties and the people who live there.
- The Borough Council makes plenty of provision for the genuine Darlington gypsy community and I am sure there that there are many safer and more suitable sites rather than in a green belt and predominantly agricultural area.
- This is a green belt area of land and after the recent planning approvals that have been granted I feel the Council has lost sight of the best interests of the area and nearby villages.
- Planning permission was refused for a stable block many months ago but yet the equine area has still been built along with concrete bases for the caravans.
- A septic tank has been installed which raises an environmental issue. Permission should have been granted for this first.
- A large pipe has been laid in the existing ditch to make an unsecure bridge, which has now stopped the flow of water from the road. This is a safety issue. Due to the bad weather experienced last winter ice formed resulting in a danger to traffic and horse riders.
- The site access is in a dangerous position, sited on a blind corner and less than 10m away from the junction of Burma Road and Neasham Road.

Hurworth Parish Council has objected to the application on the grounds that the development would impact on the traffic in the area.

Campaign to Protect Rural England has objected for the following reasons: -

- The site is outside the development limit and no evidence of agricultural or forestry need was found in the documentation.
- There has been persistent long standing pressure for residential caravans in this area and if this development is permitted it could set a dangerous precedent for more such proposals.
- This residential development is located outside the urban area and there is a lack of residential facilities such as schools, health services etc.
- The site is located close to the Neasham Road junction and there could be issues of highway safety.
- The footpath for the holiday caravan site currently under construction comes out close to the proposed development and there could be a conflict of interests.
- An application for a stable block was refused on appeal on the grounds of visual amenity. If that development was considered unsuitable, this larger proposal will also be unsuitable.
- The applicants have already demonstrated they are not content to abide by the planning decisions by their ignoring the Planning Inspector's decision and constructing the stable block. There is consequently no guarantee the applicants would abide by any permission granted and there is a severe risk uncontrolled development may occur.

CE Electric UK has provided drawings identifying their apparatus (overhead lines) passing through the site. The company has stated that no objection is raised provided that their rights are not affected in terms of access to the apparatus for any maintenance any replacement or renewal works necessary.

Northumbrian Water and Essex & Suffolk Water has no objection to the development.

The Environment Agency has no objection to the development but request the imposition of a condition to any approval requiring the submission of a scheme for the disposal of foul drainage.

The Council's Highway's Engineer considers that the position of the vehicular access into the site is acceptable subject the provision of a properly constructed access onto Burma Road (including dropped kerb and metalled verge crossing). The visibility at the access is also considered acceptable in his opinion although it is likely to require some trimming of the hedge to the west of the access.

He has raised concerns over accessibility to the nearest local services in Neasham, Hurworth and the Town itself by alternative modes of transport to the car, due to the lack of safe pedestrian facilities on Neasham Road and also poor public transport accessibility of the site. Nevertheless he has also commented: -

“A recent planning appeal for a similar development put little emphasis on accessibility of such sites and referred to guidance (ODPM Circular 01/2006) where it is recommended that in assessing rural locations for gypsy sites local authorities should be realistic about the availability of alternatives to the car. The appeal in question effectively accepted that it was not unreasonable for occupiers of such sites to walk along roads with no dedicated pedestrian provision. Also, it was considered reasonable that a bus service within 1km of the site was within reach. The application at Burma Road, by that token, is therefore within reach of the bus service that runs along Roundhill Road.”

Given the Inspector's decision he is of the view that it would be difficult to recommend a refusal of planning permission on the grounds of its poor accessibility to local services by means of transport other than the car. The appeal decision which the Highways Engineer refers to was for the change of use of land to a private gypsy at Snipe Lane to the South of the A66.

The Council's Public Protect Division has advised that of the land which is the subject of this application lies on a former landfill site. Consequently it is recommended that a contamination condition should be attached to any permission.

PLANNING ISSUES

It is considered that the evidence submitted with the application is sufficient to justify the gypsy status of the applicants. Consequently the main issue concerns whether this site is an appropriate location for a private gypsy site in light of development plan policies and Central Government guidance and advice.

Policy Background

Policy E2 of the Local Plan states that most new development will be located within the development limits. The Policy does not specifically refer to gypsy sites as a form of development that would be permitted outside the development limits but it does say that any development that is permitted must avoid unacceptable harm to the character and appearance of the rural area. Policy H21 identifies the principal locational criteria to be applied in the consideration of additional private gypsy sites, which all have to be satisfied for a proposed development to be permitted. However Policy H21 pre-dates Government's ODPM Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites' which sets out in paragraph 54 that "Rural Settings, where not subject to special planning constraints, are acceptable in principle". Whilst the site is in an area of defined open countryside it has no other special designation.

Circular 01/2006 sets out that there has been a general national failure to deliver adequate sites for gypsies and travellers in many areas of England over the last ten years and there is now a need to address this under provision. The Circular requires that Local Planning Authorities should assess the need locally for the provision of sites to meet the identified need in their area by way of a rural exception policy in their Development Plan Documents that form part of the Local Development Framework (LDF).

Regional work carried out in 2007 for the North East of England Regional Spatial Strategy (RSS), now revoked, indicated that there was a need for additional gypsy sites within the local authority areas of Darlington, Stockton, Middlesbrough and Redcar & Cleveland. A more recent Study, *'the Tees Valley Gypsy and Traveller Accommodation Needs Assessment'*, completed for the five Tees Valley Local Authorities and published in January 2009 identifies a need for 61 additional pitches in the Borough of Darlington for the period 2007 -2012. The LDF will identify the sites to accommodate the pitch numbers that are required but as yet has not progressed to this stage. A document that includes site allocations is not likely to be adopted until 2013 at the earliest. Until those allocations are in place it is difficult to provide evidence that the unmet needs of gypsies like the applicants could be met elsewhere. The Council's gypsy liaison officer has indicated that there are no available residential pitches at the Neasham Road or Honeypot Lane sites. In any event supporting information with the application (including a letter from the president of the Gypsy Council) states that these sites would not be suitable due to the applicants' social incompatibility with the families that generally occupy them.

In view of the unmet need which has been identified in the Borough and the lack of available alternative suitable sites it is considered that the proposed use of the site for two gypsy pitches is acceptable in principle.

Character and Appearance of the area

Policy H21 of the Local Plan sets out a number of locational criteria that private gypsy sites should meet. These include that they should not encroach on open countryside, are not prominent and that the occupied part of the development can be adequately screened.

The site lies within an area of degraded landscape value due its past history as a former clay pit associated with the Skipbridge brickworks site and subsequent landfill. The site lies within an area of land identified by Policy E17 (Landscape Improvement) which seeks to improve areas of poor or degraded landscape character.

Much of the site is well screened from the west by an existing well established high hedgerow alongside Neasham Road, although there are some gaps in this which provide limited views into the site and of the field shelter. Generally though the caravans are reasonably well screened from the highway, when approaching the site from the north or south. To the east of the site is a wooded area and open fields beyond but is not highly visible when viewed from this direction. The southern boundary of the site is defined by a post and wire fence and therefore there are distant views from properties at Brickyard farm and industrial premises at Skipbridge. The most noticeable views into the site are at the junction of Burma Road and Neasham Road and partly along Burma Road, immediately to the north. Although the northern boundary is partially screened by an element of high hedgerow the upper portions of the caravans are visible when viewed close to the site. However, overall it is considered that the site is reasonably well screened and therefore it is considered that the development would not be prominent within the wider landscape. Indicative landscaping proposals have been submitted with the application that

include the gapping up of existing hedgerows and new planting along the southern and eastern boundaries of the site which would provide additional screening and also bring about general landscape improvements to this locality.

It is noted that in dismissing the recent appeal for a stable building on the site, the building was situated towards the extreme southern end of the site which is more prominent within the landscape. In addition ODPM Circular 01/2006 states “*–local landscape and local nature conservation designations should not be used in themselves to refuse planning permission for gypsy and traveller sites*”. Furthermore the Circular goes on to say “*In some cases, perhaps, involving previously developed (brownfield), untidy or derelict land, the establishment of a well-planned or soft –landscaped gypsy and traveller site can be seen as positively enhancing and increasing openness*”.

Highway matters

The Council’s Highways Engineer has raised no highway objections to the proposal subject to the imposition of a condition requiring the provision of a properly constructed access onto Burma Road (including dropped kerb and metalled verge crossing). The visibility at the access is also considered acceptable in his opinion although it is likely to require some trimming of the hedge to the west of the access.

Sustainability

The site is situated approximately 1.7km from the urban area of the town, 1.2km and 2km from the villages of Hurworth and Neasham respectively, where the nearest local services such as shops, schools and medical facilities can be found. In relation to access to these facilities by public transport the site is not particularly well served in this respect. There is no service along Neasham Road which passes the site. The nearest bus service uses Roundhill Road on its route between the town and the villages of Hurworth and Neasham which is approximately 980m to the north of the site. Furthermore there are no safe pedestrian routes connecting the site with the town and the villages. Consequently it could be argued that the site is not in a sustainable location. As described earlier in this report the Council’s Highways Engineer raised concerns regarding this issue. Nevertheless, ODPM Circular 01/2006 states that in assessing rural locations for gypsy sites local authorities should be realistic about the availability of alternatives to the car in accessing local services. Members may wish to note that planning permission was granted on appeal in June of this year for a gypsy site at Snipe lane to the south of the A66. Similar to this application the site is not readily accessible by public transport. The Inspector acknowledged that that site was approximately 1km from the nearest regular service but found that that this was acceptable in the context of the advice given in the Circular. Given the close similarities between the two applications in this respect and the guidance provided in the Circular it is considered that the location of the site is acceptable in terms of accessibility to local services.

Residential Amenity

Policy H21 of the Local Plan requires that the development will not result in disturbance affecting occupiers of existing land or buildings. The nearest dwelling to the occupied part of the site is approximately 210m to the south on the opposite side of Neasham Road. In view of this

separation distance and the screening afforded to the site it is not considered that the amenities of its occupants would not be materially harmed.

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.

CONCLUSION

It has been clearly established that there is an unmet need in the Borough for additional gypsy sites as highlighted within the assessments that have recently been carried out in the Tees Valley. However there are no identified suitable alternative sites and such additional provision via site allocations through the Local Development Framework are unlikely to be met until 2013 at the earliest. Until those allocations are in place it is difficult to provide evidence that the unmet needs of gypsies like the applicants could be met elsewhere. Whilst the site lies outside the development limits it is situated within an area of poor landscape quality as a result of previous uses and therefore would not encroach onto open countryside to the extent that it would be detrimental to the visual amenity of the locality. Furthermore the occupied part of the site would be satisfactorily well screened to ensure that the development would not detract from the character and appearance of the surrounding countryside beyond. The proposed development is not considered to raise any issues in relation highway safety or crime prevention neither would it cause any material harm to the amenities of residential occupiers in the vicinity of the site.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS: -

- 1) A3 Implementation Limit (Three Years)
- 2) B5 Detailed Drawings (Accordance with Plan)
- 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 Borough of Darlington Local Plan and ODPM Circular 01/2006 – Planning for gypsy and traveller caravan sites.

- 4) The residential use hereby permitted shall be restricted to the stationing of no more than 4 caravans at any one time (of which no more than 2 shall be a static or mobile home).

REASON – In the interests of the character and visual amenities of the area.

- 5) Any caravans positioned on the site shall be capable of being lawfully moved on the public highway without division into separate parts.

REASON – In the interests of highway safety

- 6) Within two months of the date of this permission a scheme for hedge planting (including details of native species, plant sizes and proposed numbers and densities) shall be submitted to the local planning authority and the scheme shall include a timetable for its implementation. The scheme shall include details of existing hedges on the site to be retained and these shall be maintained at a minimum of 2.5m high. If, within 5 years of the implementation of this permission, any new or retained hedge plants die they shall be replaced within the next planting season in accordance with the approved scheme.

REASON – In the interests of visual amenity

- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

REASON - In the interests of the character and visual amenities of the area.

- 8) No commercial activities shall take place on the land, including the storage of materials.

REASON - In the interests of the character and visual amenities of the area.

- 9) A scheme to deal with contamination of land and/or groundwater, including soil contamination, ground/surface water contamination, landfill gas, leachates and stability as appropriate, is required to be submitted and approved by the Local Planning Authority. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:-

- (a) Within two months of the date of the date of this permission a desk top study, carried out by a suitably qualified person, to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site shall be submitted to and approved by the Local Planning Authority. The scope of the study shall be agreed with the Local Planning Authority before it is commenced and the report shall conform to any such agreed requirements.
- (b) Within a timescale to be agreed with the Local Planning Authority following receipt of the desk study report, a site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications shall be submitted to and agreed by the Local Planning Authority. The site investigation shall not commence until the extent and methodology have been agreed in writing with the Local Planning Authority.
- (c) Within a timescale to be agreed with the Local Planning Authority following receipt of the site investigation report, a written method statement for the remediation of land and/or groundwater contamination affecting the site shall be determined through risk assessment and submitted and agreed by the Local Planning Authority. The works specified in the Reclamation Method Statement shall be implemented and completed in accordance with the agreed method statement by a competent person, no alterations to the method statement or associated remediation works shall be carried out without the written agreement of the Local Planning Authority.
- (d) The completion report (the 'Validation Report') confirming the objectives, methods, results and conclusions of all remediation works shall be submitted and agreed by

the Local Planning Authority within 2 months of completion of the remediation works.

- (e) Any contamination not considered in the Reclamation Method Statement but identified during the reclamation works should be subject to further risk assessment and remediation proposals agreed with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the development can be implemented and occupied with adequate regard to environmental and public protection

- 10) Within two months of the date of this permission a scheme to dispose of foul drainage shall be submitted to the local planning authority. Once approved the scheme shall be implemented within two months of the date of the agreed details and the scheme shall not be carried out otherwise in accordance with the approved scheme.

REASON -To protect the water environment.

- 11) Within two months of the date of this permission details of a properly constructed access onto Burma Road (to include dropped kerbs and metalled verge crossing) shall be submitted to the Local Planning Authority. Upon approval of such details the works shall be implemented within two months from the date of the agreed scheme. The development shall not be carried out otherwise in accordance with the approved details.

REASON – In the interests of highway safety.

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

It has been clearly established that there is an unmet need in the Borough for additional gypsy sites as highlighted within the assessments that have recently been carried out in the Tees Valley. However there are no identified suitable alternative sites and such additional provision via site allocations through the Local Development Framework are unlikely to be met until 2013 at the earliest. Until those allocations are in place it is difficult to provide evidence that the unmet needs of gypsies like the applicants could be met elsewhere. Whilst the site lies outside the development limits it is situated within an area of poor landscape quality as a result of previous uses and therefore would not encroach onto open countryside to the extent that it would be detrimental to the visual amenity of the locality. Furthermore the occupied part of the site would be satisfactorily well screened to ensure that the development would not detract from the character and appearance of the surrounding countryside beyond. The proposed development is not considered to raise any issues in relation highway safety or crime prevention neither would it cause any material harm to the amenities of residential occupiers in the vicinity of the site. Therefore the proposed development is considered to comply with the policies in the development plan and Government planning policy set out below: -

Saved Policies of the Borough of Darlington Local Plan:

E2 – Development Limits

E17 – Landscape Improvement

H21- Additional Gypsy Sites

R15- Horse Related Development

T24 –Parking and Servicing Requirements for New Development

National Planning Policy

Planning Policy Statement (PPS) 7: Sustainable Development in Rural Areas

ODPM Circular 01/2006 –Planning for Gypsy and Traveller Sites

INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED

- *The applicant is advised that works are required within the public highway at the proposed access onto Burma Road, to construct new vehicle crossing and trim hedges, and contact must be made with the Assistant Director : Highways and Engineering (contact Mr.A.Ward 01325 388743) to arrange for the works to be carried out or to obtain authority under Sec.184 of the Highways Act 1980 to execute the works.*
- *The applicant is advised that contact must be made with the Assistant Director : Highways and Engineering (contact Ms.P.Goodwill 01325 388760) to discuss naming and numbering of the development.*

- *Environmental Permits*

Under the terms of the Environmental Permitting Regulations (England and Wales) 2010, anyone intending to discharge volumes of sewage effluent of 5 cubic metres per day or less to surface waters or 2 cubic metres per day or less to ground may be eligible for an Exemption, as opposed to a full Environmental Permit. This Exemption would need to be registered by the Environment Agency before any discharge could commence.

An Environmental Permit from the Environment Agency is normally required for discharges above this volume. Please note that it is illegal to discharge sewage effluent without either an Exemption registration or an Environmental Permit.

Further guidance on these changes and necessary requirements is available on our website at:

<http://www.environment-agency.gov.uk/business/topics/water/117485.aspx>

- *Land Drainage Consent*

Any works to the adjacent watercourse may require the prior written consent of the Environment Agency.

Erection of flow control structures or any culverting of a watercourse requires the prior written approval of the Environment Agency under s.23 of the Land Drainage Act 1991 or s.109 of the Water Resources Act 1991. The Environment Agency resists culverting on nature conservation and other grounds and consent for such works will not normally be granted except for access crossings.

If a flow control structure or culvert is erected without consent the Environment Agency has powers under S24 of the Act to serve a notice on the person who installed the culvert requiring it to be removed. Not complying with the terms of the notice is an offence, and on summary conviction that person is liable to a fine not exceeding £5,000. Notwithstanding this action the Environment Agency also has powers to remove the culvert ourselves and recover the costs incurred.

- *Non Mains Drainage Scheme*

The Environment Agency's main concern is in relation to the proposed septic tank and soak away system proposed for sewage treatment. Our knowledge of the area is that it is located on clay and there have been issues in the past relating to drainage on other nearby sites. Therefore we require further information on the suitability and effectiveness of a septic tank and soakaway system.

As such we request that the applicant undertake a porosity test to demonstrate the suitability of the ground as part of the requested drainage scheme. Alternatively we recommend the installation of a package treatment plant.