

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 26th August 2009

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APPLICATION REF. NO:	09/00239/FUL
STATUTORY DECISION DATE:	19th June 2009
WARD/PARISH:	Hurworth
LOCATION:	Snipe Lane Darlington.
DESCRIPTION:	Change of use of land to private gypsy site and the siting of one mobile chalet and extension of stables to form amenity block.
APPLICANT:	Mr Robert Smith.

APPLICATION AND SITE DESCRIPTION

The application site currently consists of an area of hardstanding some 20 x 40 metres lying adjacent a paddock area nearly 2 hectares in area. Within the hardstanding area is an existing stable and tack building which was granted planning permission in 2007. Access to the site is via a field gate from Snipe Lane, which is a narrow partially tarmaced road leading to the A66 approximately half a kilometre to the north.

The site is screened from Snipe Lane by hedgerows but can be seen from the more distant East Coast Main Railway Line to the west.

The current application relates to the siting of a single mobile chalet and the extension of the existing stable block to create an amenity block to be used by the applicant. In addition two car parking spaces and a touring caravan parking space will be created on the site.

PLANNING HISTORY

01/0626/FUL – Livestock building refused permission on visual impact grounds – dismissed on appeal.

07/0209/FUL – Stable block refused permission on visual impact grounds – dismissed on appeal.

07/1130/FUL – Stable block granted with conditions.

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
- Policy E2 of the adopted Local Plan
- Policy H21 of the adopted Local Plan

The recently published Tees Valley Gypsy and Traveller Accommodation Needs Assessment 2009 is also a material consideration.

The acceptability or not of the proposed development will be governed by the above policies. Comments have been received from the Council's planning policy section explaining the background to the policies and these are outlined below.

The North East of England Plan Regional Spatial Strategy to 2021 (the RSS), which forms part of the development plan for Darlington, provides a broad indication as to where accommodation needs of Gypsies and travellers arise. Regional work carried out in 2007 that informed the RSS indicated that for the local authority areas of Darlington, Stockton, Middlesbrough and Redcar & Cleveland combined, a total of 13 additional pitches will be required by 2010 and an additional 18 by 2015.

Since the regional work was completed, the five Tees Valley local authorities have carried out an additional piece of work, the Tees Valley Gypsy and Traveller Accommodation Needs Assessment (GTAA). Completed in January 2009, this study was commissioned to help the local authorities address some long standing accommodation issues for members of Gypsy and Traveller communities. The study's findings were that on the basis of identifying 'need where it is seen to arise', a total of 71 additional pitches are needed across the Tees Valley in the period 2007-2012, of which 61 are needed in Darlington Borough.

The proposed site is outside the development limits, as shown on the adopted Local Plan Proposals Map. Policy E2 of the adopted Local Plan does not specifically refer to Gypsy sites as a form of development that would be permitted outside 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 of the adopted Local Plan deals specifically with additional private Gypsy sites, and sets out eight criteria that all have to be satisfied for a proposed development to be permitted.

The LDF Core Strategy is not at a sufficiently advanced stage of preparation to be a material consideration in the consideration of this application.

RESULTS OF CONSULTATION AND PUBLICITY

Local residents have been informed and a site notice posted on the land.

A local resident has objected to the proposal raising the following issues :

- Notwithstanding the applicant's claimed overcrowded living conditions, the notion that his situation is "in accordance with the phrase *needs of local communities*" (Policy E2) is strongly refuted. No need to relocate to a rural location.
- The proposals will conflict with Policy E2 in that the new mobile home will result in unacceptable harm to the character of the rural environment.
- The proposals will conflict with Policy H21 in that all of the 8 criteria except number 2 will be transgressed.
- It is considered that Gypsy site provision should be via the LDF process rather than piecemeal planning applications. The Core Strategy Preferred Options Policy CS13 reflects the criteria contained within Policy H21 referred to above.

The above comments are discussed below within the Planning Issues section.

Hurworth Parish Council – Concerns regarding caravan access onto A66 Trunk road.

CPRE – Object as the proposal is beyond the development limits and is not related to agriculture or forestry. Also a precedent could be set for further development if this is approved.

Environmental Health – Concerned that other caravans may move onto the site causing site licence problems; suggests a condition limiting numbers is imposed on any permission.

Highways Engineer – Concern over access onto A66 – there have been previous refusals on road safety grounds. Recommends refusal.

Highways Agency – No objections raised.

Planning Policy – No objections providing the criteria within Policy H21 can be met. An outline of the comments are set out below :

RSS Policy 30 indicates that Local Development Framework (LDF) documents should provide the criteria for the provision and release of pitches for Gypsies, travellers and travelling showpeople and where appropriate, identify locations for these pitches. The Darlington LDF will identify the sites to accommodate the pitch numbers that are required, but it is currently at a relatively early stage of preparation and a document that includes site allocations is not likely to be adopted until 2012 at the earliest. Until those allocations are in place, it is difficult to provide evidence that the unmet needs of Gypsies like Mr. Smith could be met elsewhere, though the Council's Gypsy liaison officer has indicated that there have been vacant pitches at Honey Pot Lane caravan sites this year.

The proposed site is outside the development limits, as shown on the adopted Local Plan Proposals Map. Policy E2 of the adopted Local Plan does not specifically refer to Gypsy sites as a form of development that would be permitted outside 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 of the adopted Local Plan deals specifically with additional private Gypsy sites, and sets out eight criteria that all have to be satisfied for a proposed development to be permitted.

Regarding criteria 1, as the site is outside the limits to development, it is considered to be in the countryside. For the proposed development to be considered not to encroach on the open countryside, you will need to be satisfied that there are sufficient natural or built up features screening the site.

The site is not in an area of high landscape value so criteria 2 is satisfied and as far as I am aware the site is not of any recognised scientific or historic importance, nor of high agricultural quality, so criteria 8 would be satisfied.

Regarding criteria 5, the site does not have convenient access to public transport or local services such as shops, hospitals and medical facilities, except by car. The nearest local services would be in the Geneva Road/Neasham Road area of the main built up area, some 1.5 to 2 miles away.

In an appeal decision for a Gypsy site nearby that was determined in 1997 the Inspector considered that although there were no public transport facilities in the immediate area, it (the development) was deemed not to have an overriding negative affect in relation to the proposal as it “involved one family with access to private transport”. Since this appeal was determined, new government policy has been issued in the form of Circular (ODPM) 01/06. This indicates that in assessing the suitability of rural settings for sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Mr. Smith does not appear to be proposing bringing any children to live with him on the site so access to schools is not an issue, and he has access to a private car, enabling him to readily reach health and other services in the town.

ODPM Circular 01/06 also indicates that consideration should be given to the promotion of peaceful and integrated co-existence between the site and the local community, the possible environmental damage caused by unauthorised encampment; and not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.

PLANNING ISSUES

In this instance the main issues relate to whether the proposal complies with the relevant policies within the Darlington Local Plan; these policies encompass a variety of issues and are detailed below.

The most directly applicable policy relating to this application is Policy H21 – Additional Gypsy Sites. It states that :

PRIVATE SITES FOR SETTLED OCCUPATION BY GYPSIES WILL BE PERMITTED PROVIDED THAT ALL OF THE FOLLOWING CRITERIA ARE MET:

- 1. THE SITE DOES NOT ENCROACH ON OPEN COUNTRYSIDE;**
- 2. THE SITE IS NOT IN THE AREA OF HIGH LANDSCAPE VALUE;**

3. THE SITE IS NOT PROMINENT AND THE OCCUPIED PART OF THE DEVELOPMENT CAN BE ADEQUATELY SCREENED BY ESTABLISHING NEW, OR RE-MODELLING EXISTING, PLANTING AND EARTH MOUNDING;

4. THE DEVELOPMENT WILL NOT RESULT IN DISTURBANCE AFFECTING THE OCCUPIERS OF EXISTING LAND OR BUILDINGS;

5. THE SITE HAS CONVENIENT ACCESS TO PUBLIC TRANSPORT AND LOCAL SERVICES SUCH AS SHOPS, HOSPITALS AND MEDICAL FACILITIES;

6. THE DEVELOPMENT INCORPORATES ADEQUATE ARRANGEMENTS FOR ACCESS TO AND FROM ADJOINING HIGHWAYS, FOR THE PARKING AND MANOEUVRING OF VEHICLES, FOR OUTDOOR AMENITY AREAS AND STORAGE, AND FOR THE SECURITY OF THE SITE DURING PERIODS WHEN IT IS UNOCCUPIED;

7. THE DEVELOPMENT CAN BE PROVIDED WITH ADEQUATE UTILITY SERVICES; AND

8. THE DEVELOPMENT WILL NOT ADVERSELY AFFECT ANY BUILDINGS OR AREAS OF AGRICULTURAL LAND QUALITY, ARCHITECTURAL, HISTORIC OR SCIENTIFIC IMPORTANCE.

In addition Policy E2 states that most new development will be located within the development limits of settlements as defined on the proposals map.

Analysis of Policy H21 (Additional Gypsy Sites)

Referring to 1. and 3. above the site is clearly beyond the development limits of settlements and lies within an open countryside location. In order that encroachment into open countryside is avoided the development needs to be screened and out of prominent view so as not to detrimentally effect the character of the open countryside. Inspection of the site and perusal of the photographs indicate that the site is well screened from the public highway by existing hedgerows and is nearly 200 metres from the railway line to the west. The site itself can be described as “brownfield land” in that it has been previously developed with the block of stables currently occupying the hard surfaced area.

2. The site is not an Area of High Landscaped Value.

4. The application site is located some 130 metres from there nearest residential property so is unlikely to cause disturbance to those residents. The occasional passage of vehicles to and from the application site would be similarly unlikely to cause disturbance sufficient to warrant a refusal of planning permission.

5. In an appeal decision for a Gypsy site nearby that was determined in 1997 the Inspector considered that although there were no public transport facilities in the immediate area, it (the development) was deemed not to have an overriding negative affect in relation to the proposal as it “involved one family with access to private transport”. Since this appeal was determined, new government policy has been issued in the form of Circular (ODPM) 01/06. This indicates that in assessing the suitability of rural settings for sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. The

applicant does not appear to be proposing bringing any children to live with him on the site so access to schools is not an issue, and he has access to a private car, enabling him to readily reach health and other services in the town.

6. The Highways Agency, who are the determining Authority for access onto Trunk Roads have no objections to the proposals. The Inspector determining an appeal on nearby land was also of the opinion that the access along Snipe Lane whilst restricted was adequate for the low levels of use likely to be generated by the development. It is considered that in this instance, similar considerations apply and that traffic generation will be limited and not be such as to warrant the refusal of planning permission.

7. Mains electricity and water already serve the site and it is proposed to use a package treatment plant for sewage – all acceptable methods to the Local Planning Authority.

8. The development will comply with the requirements of the criteria referred to.

Referring to the need for additional gypsy sites in the Darlington Area, various assessments have been made within the Tees Valley area and it is clear that a need has been identified for more pitches in the area up to 2012. Whilst the best way to identify new locations is via the LDF (as RSS Policy 30 indicates), its preparation is in its early stages and is not sufficiently advanced to be a material issue in considering this application. It is appropriate to consider these matters on a site by site basis using Policy H21 and recent Government guidance.

Finally Government Circular 01/06 Planning for Gypsy and Traveller Caravan Sites indicates that sites on the outskirts of built up areas may be appropriate as may rural or semi rural settings, where not subject to special planning constraints. It is considered that the proposed development on balance conforms with this guidance.

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

The issue of whether the development conflicts with the Development Plan has been explored above. Whilst the site is located outside development limits, whether it encroaches into open countryside or not is determined by its visual impact on the locality. It is considered that the site does not impose itself to such an extent that encroachment takes place, particularly as the site itself may be considered to be “brownfield land”.

Other criteria contained within the Local Plan Policies relating to gypsy development are considered to be satisfied as described above and this opinion is reinforced by the weight that should be afforded to the need to provide gypsy sites within the Darlington area, as highlighted within the assessments that have recently been carried out in the Tees Valley.

It is considered therefore that the proposed development is acceptable but only with strict conditions relating to the occupancy of the site and the number of caravans stationed on the site, together with a requirement to retain the existing site screening.

RECOMMENDATION

That planning permission is granted subject to the following conditions :

1. A3 Implementation limit (Three Years)
2. The site shall only be occupied by a gypsy as defined in ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites. REASON – In order that the development complies with the Borough of Darlington Local Plan.
3. The site shall only be occupied by a single gypsy family. REASON – In the interests of the character of the locality.
4. No more than one mobile home and one touring caravan shall be stationed on the site. REASON – In the interests of the character of the locality.
5. The site shall be used for residential purposes only and no commercial vehicles shall be parked on the site without the prior written permission of the Local Planning Authority. REASON – In the interests of the character of the locality.
6. The existing hedgerows bounding the site shall be retained in their entirety; any cutting or other maintenance shall only take place with the prior written permission of the Local Planning Authority. REASON – To ensure the site remains screened from public view.
7. J2 - Contaminated land condition.
8. Details of the proposed mobile home to be approved before development commences. 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 proposals in the Borough of Darlington Local Plan set out below, and to all relevant material considerations, including Supplementary Planning Guidance:

- Government (ODPM) Circular 01/06: Planning for Gypsy and Traveller Caravan Sites
- Policy 30 of the Regional Spatial Strategy, published in July 2008
- Policy E2 of the adopted Local Plan
- Policy H21 of the adopted Local Plan