



Appeal Decision

Hearing held on 22 September 2015

Site visit made on 22 September 2015

by **B.Hellier BA(Hons) MRTPI**

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

Decision date: 27 January 2016

Appeal Ref: APP/N1350/W/15/3005801

Land at Aycliffe Lane, Brafferton, Darlington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Sykes against the decision of Darlington Borough Council.
 - The application Ref 14/00879/FUL, dated 29 August 2014, was refused by notice dated 16 December 2014.
 - The development proposed is change of use of land to a private gypsy site for residential purposes incorporating the siting of a mobile home, two touring caravans and erection of an amenity building.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appeal was submitted in tandem with one for two gypsy pitches on adjoining land¹ and served by a common access. I heard the appeals on consecutive days but held a single site visit.

Main issue

3. I consider the main issue is twofold: firstly, the effect of the proposed development on the character and appearance of the countryside; and, secondly, if there is harm to the countryside then whether it would outweigh other considerations, including the need for gypsy sites and the accommodation needs and personal circumstances of the appellant.

Reasons

Planning policy

4. The development plan includes the Darlington Core Strategy. Policy CS13 supports the continuation of gypsy site provision at the existing Council owned sites at Honeypot Lane and Neasham Road². It also sets out criteria for allocating additional sites and for considering windfall applications. Criterion (b) requires sites to be located and designed so as not to have an unacceptable negative impact on existing residential amenity or existing landscape character.

¹ Appeal Ref APP/N1350/W/3005806. Appellant: Mr David Ward

² Now renamed Rowan West (original site) and Rowan East (extension)

5. National guidance on gypsy sites is set out in Planning Policy for Traveller Sites (PPTS)¹. It was agreed that the site would satisfy the sustainability criteria set out in paragraph 13. Additionally there would be no conflict with the considerations appropriate to a rural location described in paragraph 25 in that: whilst the site is in open countryside it is close to Brafferton village and has reasonable access to shops and a good range of services in Darlington; whilst there are two existing gypsy pitches nearby the cumulative effect would not dominate the nearby village community; and there would be no undue burden placed on the local infrastructure.

Character and appearance

6. The appeal site is currently used for grazing horses. There is an existing gypsy site on higher land to the south (Rogers) and another approved gypsy site on lower ground to the north (Cainey) where there is, at present, a stable block and hardstanding. The field is bounded by good hedgerows. The main east coast railway line, in a cutting, and the A1(M) motorway are to the south west and north west respectively following the valley of the River Skerne. The site would be accessed by 100m of track running alongside the boundary hedge from a field gate on Aycliffe Lane. This is a minor road which joins Lamb Lane which then crosses over the A1(M) to meet the A167 on the outskirts of Newton Aycliffe.
7. The site lies to the east of the River Skerne communications corridor where the countryside is relatively unspoilt. The topography is undulating with the landform, hedgerows and clumps of trees limiting views. The linear village of Brafferton nestles in the landscape and there are isolated farms and farm buildings. The Rogers gypsy site has a backdrop of a tall hedge but in views from the north it presents a raw edge with a line of three touring caravans and a mobile home.
8. The appeal site is in an exposed position on sloping land. Within the site there is a considerable change in level and a rolling surface created by a well preserved ridge and furrow feature. To be made usable the site would need to be excavated and terraced. The resulting engineered landform and the on-site development would be seen from the north in combination with the Rogers site. Together they would be a strong jarring element in the landscape, out of keeping with the small scale of the existing scattered settlement pattern. The effect would be less harsh if the planting scheme on the Rogers site is successful but the slope, elevation and openness of the appeal site would reduce the effectiveness of any planting here.
9. The site is not visible from Brafferton or from Aycliffe Lane where the thick hedge even in winter would be an effective screen. The entrance would need to be formalised with a dropped kerb and a gate set further back from the road but if carried out sensitively would maintain the form and appearance of an agricultural access. The principal public view of the caravans would be from the bridge taking Lime Lane over the motorway and from the motorway itself. There is a footway over the bridge and a public right of way across the fields to Aycliffe but it is not a well-used route. Driving over the bridge from Aycliffe towards Brafferton the development would be clearly seen for a short distance. From the motorway southbound vehicles would have a glimpse of it after they have passed under the Lime Lane bridge.

¹ *Planning Policy for Traveller Sites* DCLG August 2015

10. The cumulative effect of the proposal would be to create an extensive clutter of development on an exposed slope which would be out of scale and character with the surrounding countryside. I conclude that, although there are only limited public views of the site, there would nonetheless be a considerable adverse effect on the intrinsic character of the landscape.

Other considerations

General need for sites and future supply

11. There is an up to date Gypsy and Traveller Accommodation Assessment (GTAA)¹. This establishes that there is a need for 79 additional pitches between 2014 and 2019. The Council accepts it does not have a supply of sites to satisfy this requirement but maintains that the shortfall is less than 10 pitches. Much of the need has been met as a result of the Council developing a new site with 20 pitches (Rowan East) and through new permissions, mainly at Snipe Lane. The appellant claims that many of the new permissions in Snipe Lane were implemented before the GTAA baseline date and should have been treated as part of the accommodation stock.
12. On the information before me the baseline occupied caravan stock may well be an underestimate. If so this would have the effect of understating household growth and overstating future supply. Furthermore the facilities at the old Rowan West site are in need of refurbishment. The Council is preparing a funding bid to the Homes and Communities Agency for this work and in the meantime is gradually emptying the site, many of the residents having decanted to Rowan East. In the short term therefore this represents a reduction in supply.
13. The Council is preparing a site allocations development plan document (DPD) which will set out how the shortfall in supply will be met. The consultation draft² proposes further extensions to Honeypot Lane and an assumption that windfall sites will come forward which satisfy the selection criteria in Core Strategy Policy CS13. However work is currently stalled on the DPD while there is a review of the objectively assessed housing need. Little weight can be given to the document at this stage.

Personal accommodation needs

14. The appellant is a Romany Gypsy. He is a horse dealer with about 40 cobs on his land at Brafferton and on other rented land in the Doncaster and York areas. He also does roofing work specialising in fascias and guttering. He would normally expect to be based in Darlington most of the winter but travels to horse fairs and in summer normally moves to the Doncaster area for work. On this evidence it is agreed that the appellant leads a nomadic existence, travels for an economic purpose and meets the planning definition of a gypsy³.
15. He and his wife started married life on the Honeypot Lane site but when it was redeveloped they moved into a house. He describes this as a disaster. They were like fish out of water because they were socially isolated and were uncomfortable in bricks and mortar accommodation. His aspiration is to have

¹ Darlington Borough Council Gypsy and Traveller Accommodation Assessment 2014. RRR Consultancy Ltd September 2014

² Making and Growing Places: Preferred Options Development Plan Document June 2013

³ Defined in PPTS Annex 1: Glossary

his own pitch with land for horses and other animals. He has four children and they live and travel as a family. The Rowan East site has good facilities but would be too cramped for the six members of his family. The Honeypot Lane site has vacancies but only on transit pitches which do not have individual amenity buildings. There is also a degree of falling out within the gypsy community which makes it unlikely that he would be accepted on these sites.

16. In terms of other potential windfall sites the appellant suggested that there may be a better alternative location for a pitch within his land holding or that of David Ward, with whom he has good relations, although I make no judgement as to its suitability. However the rural area surrounding Darlington, which is not Green Belt nor a designated landscape, offers opportunities and there have been a number of planning permissions for gypsy sites here in recent years although I acknowledge that the cost of any land that comes forward would be a constraint.
17. The appellant has a cultural aversion to conventional housing but for practical purposes I do not find that dismissing the appeal would leave the family homeless or engage Article 8 of the Human Rights Act. The appellant has proved himself resourceful in the past and it is likely that he would double up with a relative or friends whilst continuing to look for a permanent site of his own. Nonetheless as he has already abandoned his house and does not have an established base I give modest weight to his personal accommodation needs.

Personal circumstances

18. There are four children in the family. Cherife (aged 14), Alicia (11), Shaun (8) and Virginia (3). Shaun attends St Teresa's Primary School in Darlington and, when in Doncaster, Askern Primary School. Virginia is now old enough for nursery school. The appellant would also like to register Alicia for a secondary school once it is established where he will be staying this winter. A letter from Doncaster Gypsy and Traveller Voice confirms that they assisted in finding school places for the children when the family was in Doncaster. Cherife no longer attends school.
19. The interests of children are a primary consideration. Whatever temporary accommodation arrangements the appellant makes it is clear that he will do his best to ensure the children go to school. Having said that, dismissing the appeal would lead to a further period of uncertainty and make it more difficult to give continuity to their schooling. I give significant weight to the benefits of an established site to the educational needs of the children.

Balancing exercise

20. I find that the appeal site location is a poor one from a landscape perspective because of its openness, because of the visual impact of the engineering works needed to level the site, and because of its inter-visibility with the Rogers site. Considerable weight attaches to the landscape harm that is so caused.
21. The Council is taking positive steps to provide additional rented pitches but there remains a shortfall in provision. I consider significant weight should be given to this unmet need and further modest weight to the particular accommodation needs of the appellant. The benefit of a settled base to the schooling of the children is also an important and significant consideration.

However on balance I find that in this case the harm to the character and appearance of the surrounding countryside clearly outweighs other considerations. As a consequence there would be an unacceptable negative impact on existing landscape character which would be contrary to the provisions of Core Strategy Policy CS13.

Temporary permission

22. The PPTS advises that in considering a temporary permission the failure to demonstrate a five year supply of deliverable sites should be a significant material consideration. In this case significant weight has already been attached to need. On the other hand a temporary permission would reduce the harm to the landscape to the timescale of the permission. However it would also mean that it would be unreasonable to expect investment in professional landscaping so that mitigation through planting would not be possible. I am not persuaded that a temporary permission would tip the balance in favour of the proposal.
23. Furthermore, a temporary permission is only justified where there will be a change in circumstances at the end of the temporary period. There is uncertainty about the content of, and delivery date for, the site allocations DPD. Even if assumptions were made about a delivery date the DPD would be most unlikely to meet the aspirations of the appellant for an owner occupied site with an attached paddock. The preferred approach of the Council in the DPD is for small private site provision to be made through windfall applications. Core Strategy Policy CS13 already provides the policy context for these.

Conclusion

24. For the reasons given above I conclude that the appeal should be dismissed.

Bern Hellier

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Alison Heine	Planning Consultant
Mr S Sykes	Appellant
Mr David Ward	Appellant for gypsy site on the adjoining land
Mr Scott Wright	Proposed occupier of one of the adjoining pitches

FOR THE LOCAL PLANNING AUTHORITY:

Mr Adrian Hobbs	Planning Officer
Ms Emma Williams	Planning Officer (Policy)
Dr John Werres	Regeneration Officer

DOCUMENTS

- 1 Council suggested conditions
- 2 Planning applications granted/refused over last 15 years
- 3 Updated Draft Policy MGP 20 and accompanying plan of sites
- 4 Plan showing applications at Snipe Lane from Council
- 5 Schedule and plan of Snipe Lane permissions from appellant
- 6 Email from Homes and Communities Agency re funding dated 21 Dec 2015
- 7 Winter view across appeal site from Lamb Lane bridge