



Appeal Decision

Hearing held on 23 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/15/3005806

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 David Ward against the decision of Darlington Borough Council.
 - The application Ref 14/00891/FUL, dated 29 August 2014, was refused by notice dated 16 December 2014.
 - The development proposed is change of use of land to private gypsy site including the siting of two mobile homes, two touring caravans and two amenity buildings.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to private gypsy site including the siting of two mobile homes, two touring caravans and two amenity buildings at Aycliffe Lane, Brafferton, Darlington in accordance with the terms of the application, Ref 14/00891/FUL, dated 29 August 2014, subject to the conditions set out in the accompanying Schedule.

Procedural matter

2. The appeal was submitted in tandem with one for one gypsy pitch 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, 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

¹ Appeal Ref APP/N1350/W/3005801. Appellant: Mr S Sykes

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

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.

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 and slopes down to the north. There is an existing gypsy site on higher land some 120m to the south (Rogers) and another approved gypsy site at a similar level as the appeal site on an adjacent field to the north-east (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 nearby, to the south west and north west respectively, following the valley of the River Skerne. The site would be accessed by 150m 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 situated on the lower part of the field although the land rises somewhat to the south east and some levelling would be needed. If this part of the site were to be lowered it would be possible to utilise the excavated material as a bund along the north west boundary which, together with a strip of planting, would soften the appearance of the development and reduce the impact of noise from the motorway about 120m away. Subject to the bunding/planting referred to I consider the development would sit comfortably in the wider landscape and would be in keeping with the scattered settlement pattern.
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 it 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.

¹ *Planning Policy for Traveller Sites* DCLG August 2015

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.

10. Development on the site would be visible to pedestrians on the bridge but there would be considerable screening from the existing hedge and hedgerow trees and this would increase when the proposed landscaping is implemented and matures. The effectiveness of the vegetation as a screen would be reduced in winter but even so it would reduce significantly the harsh appearance of the caravans. For drivers the development would be seen for a short distance travelling from Aycliffe towards Brafferton and going south on the motorway there would be a glimpse after passing under the Lime Lane bridge.
11. The Rogers and Cainey developments would be visible in the same setting as the appeal development. However I do not consider the proposal would lead to a coalescence of the sites or be such that caravans would dominate the landscape. The open field sloping up to the Rogers land would be an effective physical break between the two sites and the boundary hedge would provide a considerable degree of visual separation from the Cainey site. There would be some adverse landscape change but I conclude that only moderate weight should be attached to the harm arising from this.

Other considerations

General need for sites and future supply

12. 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 and as such is likely to be met by future windfall sites. 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.
13. On the information before me the baseline occupied caravan stock in the GTAA may well be an underestimate. If so this would have the effect of understating household growth and overstating future supply. A further factor affecting supply is the condition of the facilities at the old Rowan West site which 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.
14. 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

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

there is a review of the objectively assessed housing need. Little weight can be given to the document at this stage.

Personal accommodation needs

15. The two pitches would be occupied by Mr David Ward and his brother-in-law Mr Scott Wright who are both Romany Gypsies. After his marriage Mr Ward lived with his wife on the Rowan West site. About eight years ago, as the family expanded, with two young sons, they moved to conventional housing but they feel socially isolated and are now living in a caravan. They travel a lot during the summer, normally in Yorkshire but this year also to Berwick and Winchester. Mr Ward, together with his two sons, works mainly as a fencing contractor but they do a range of landscaping and maintenance jobs. Work comes by word of mouth and through leaflet distribution.
16. Mr Wright has never lived in a house. Even when the family built a bungalow he slept in a caravan. He and his wife currently live with their two children in the garden of his mother's property in Sedgefield. He is self-employed working principally on groundwork and landscaping. He also buys and sells cars.
17. The Council does not dispute that both of the proposed occupiers meet the planning definition of a gypsy¹. I also agree that that is the case. On the evidence before me they lead a nomadic existence and travel for an economic purpose.
18. Both families have an aversion to bricks and mortar. They have a background of living in, and travelling in, a caravan, which is an integral part of the gypsy culture. They would not wish to live at Rowan West or Rowan East because of the pitch sizes which they consider too small. The Honeypot Lane site has vacancies on transit pitches but these do not have individual amenity buildings. In addition a family dispute was referred to which makes it difficult for them to return to the above sites or look to existing permissions in Snipe Lane. If they do not move to the appeal site they would have to continue to double up with friends and relatives and/or use seasonal accommodation.
19. The present accommodation arrangements for the two families, whilst not ideal, are not entirely out of keeping with a nomadic existence. In the medium term it is expected that the refurbishment of Rowan West will provide some 20 additional pitches. The density will be high but not unusually so for publicly funded pitches. In terms of private sites, so long as the criteria in Policy CS13 are satisfied, there is no strategic constraint on gypsy site development elsewhere on the rural fringe of Darlington, which is not Green Belt and does not have any special landscape designation. Nevertheless, having regard to the uncertainties associated with the present arrangements, I give some modest weight to the personal accommodation needs of both of the proposed occupiers.

Personal circumstances

20. Mr Wright and his wife have two children, aged 3 and 2. A settled base would make it much easier for regular attendance at St Teresa's Primary School in Darlington. I give significant weight to the benefits of an established site to the educational needs of these children.

¹ Defined in PPTS Annex 1: Glossary

Balancing exercise

21. I find that the proposed development would have only a moderate adverse visual impact and is a reasonable location from a landscape perspective. On the other hand, whilst the Council is taking positive steps to provide additional rented pitches, there remains a shortfall in the provision of new sites. This is a matter to which I give significant weight. On balance I find in favour of the proposal. It would make a positive contribution to the shortfall of sites which would not be outweighed by the adverse effect of the proposed development on the character and appearance of the surrounding countryside. Since the landscape impacts would be acceptable there would be no conflict with the provisions of Core Strategy Policy CS13. The National Planning Policy Framework advises that where development accords with the development plan it should be approved.
22. Having come to the above conclusion it is not necessary for me to take into account, in the balance, the accommodation needs and personal circumstances of the two families. Furthermore, as this would be an acceptable permanent gypsy site there is no need to consider a temporary permission.

Conditions

23. The Council has suggested conditions, which formed the starting point for a discussion at the hearing, and I have also had regard to the tests set out in paragraph 206 of the National Planning Policy Framework. Standard conditions should be imposed for commencement, numbers and type of caravans, external materials (for the amenity buildings) and compliance with approved plans. The proposal has been assessed on the basis of gypsy policies so occupancy should be restricted to those who satisfy the planning gypsy definition.
24. A landscaping scheme would be necessary with particular attention to landscaping/earthworks along the north-west edge of the site. To minimise visual intrusion approval of an external lighting scheme and site access details would also be required. Further details of surface water run-off and foul drainage are needed on environmental health grounds. Finally, business activity should be precluded and commercial vehicles should be restricted in number and size.

Conclusion

25. For the reasons given above and having regard to all other matters before me, including the representations made against the proposal by the Brafferton Parish Meeting and the Campaign to Protect Rural England, I conclude that the appeal should be allowed.

Bern Hellier

INSPECTOR

Schedule of conditions (11)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

- 2) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of DCLG *Planning Policy for Traveller Sites* August 2015.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: NDS/14/DW1(site location); NDS/14/DW2 Rev.A (site layout); NDS/14/DW3 (amenity building north); and NDS/14/DW4 (amenity building south).
- 5) No development shall take place until a comprehensive landscaping scheme has been submitted to and approved in writing by the local planning authority. This shall include details of proposed finished levels; a bund and planting strip on the north-west boundary; retention of the existing hedge at a minimum height of 2 metres on the north east boundary; other means of enclosure; treatment of the access road; and a timetable for implementation. Soft landscape works shall include a schedule of plants, noting species, plant sizes and proposed numbers/densities. The scheme shall be implemented as approved in accordance with the agreed timetable. If within five years of implementation any plant dies it shall be replaced in accordance with the approved scheme within the next planting season.
- 6) No development shall take place until details of lighting have been submitted to and approved in writing by the local planning authority. Lighting shall be provided in accordance with the approved details before any occupation of the caravans and retained thereafter.
- 7) No development shall take place until details of surface water and foul drainage have been submitted to and approved in writing by the local planning authority. The drainage works shall be carried out as approved before any occupation of the caravans.
- 8) No development shall take place until details of the external materials for the amenity buildings have been submitted to and approved in writing by the local planning authority. The buildings shall be finished in the approved materials.
- 9) No development shall take place until details of the access onto Aycliffe Lane have been submitted to and approved in writing by the local planning authority. The details shall include surfacing/drainage and the treatment of any means of enclosure and gates. The access works shall be carried out before any occupation of the caravans and retained as approved thereafter.
- 10) No more than two commercial vehicles shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.
- 11) No commercial activities shall take place on the land, including the storage of materials.

APPEARANCES

FOR THE APPELLANT:

Mrs Alison Heine	Planning Consultant
Mr David Ward	Appellant
Mr Scott Wright	Proposed occupier of one of the pitches

FOR THE LOCAL PLANNING AUTHORITY:

Mr Adrian Hobbs	Planning Officer
Ms Emma Williams	Planning Officer (Policy)

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

