



Appeal Decision

Hearing held on 30 September 2015

Site visit made on 30 September 2015

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 28/01/2016

Appeal Ref: APP/N1350/W/15/3005881

Land off Snipe Lane, Hurworth Moor, 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 Messrs Sykes, Watson and Ward against the decision of Darlington Borough Council.
 - The application Ref 14/01154/FUL, dated 11 November 2014, was refused by notice dated 20 January 2015.
 - The development proposed is change of use of land for stationing of caravans for residential occupation with associated development, (with associated shared access track, hard standing, landscaping and fencing between plots, utility blocks and installation of septic tank,) for 3 gypsy-traveller plots.
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Decision

1. I allow the appeal and grant planning permission for change of use of land for stationing of caravans for residential occupation with associated development, (with associated shared access track, hard standing, landscaping and fencing between plots, utility blocks and installation of septic tank,) for 3 gypsy-traveller plots at Land off Snipe Lane, Hurworth Moor, Darlington in accordance with the terms of the application, Ref 14/01154/FUL, dated 11 November 2014, subject to conditions 1) to 8) on the attached schedule.

Procedural Matters

2. The address given above differs from that on the original application form and the Refusal Notice, and was agreed to be the more accurate location of the site. In any event the location and extent of the site is clearly shown on the application drawings.
3. The Council's reason for refusal referred to *Planning Policy for Traveller Sites* March 2012, current at that time. Opportunity was given at the Hearing for both parties to comment on the changes contained in the August 2015 publication of the same name.
4. The matter of highway safety was not a reason for refusal, although it appears that Highways England, responsible for the A66 trunk road, had issued a TR110 direction on 23 December 2014 to the effect that development should not proceed until outstanding road safety issues had been addressed. Highways England were represented at the Hearing and the appellants had been able to provide further information on receipt of their submissions at appeal.

9. The grant of the 2014 appeal permission goes against the Council's previously stated aims as it is to the east of the lane. The Inspector referred to that site being within a dip and not so prominent in long views, and that description applies also to the westernmost plot of the present appeal proposals. The land rises towards the easternmost appeal plot to be more nearly at the level of the footpath and main road. Whilst the previous Inspector referred to this rise with regard to a precedent being set by her decision, she acknowledged the need for any future application to be decided on its merits.
10. The lane curves away westward from the main road, the gap to the railway line diminishing, so that the visual impact in views from the main road and the footpath diminish also with distance. In addition, views of the existing development from the main road are limited by the intervening topography, the height of the road, and by trees, and this is true for the appeal site as well as the previous appeal site. Observations from the site and from the road indicated that a view may be had over a short section west of the lay-by, likely to be seen only by car passengers or those in higher vehicles, and then only fleetingly. People stationary in the lay-by would have their view obscured by a bank and vegetation. These limited views cannot reasonably be described as extensive in length, nor in terms of the numbers of people likely to gain the views. In addition, any fleeting views from fast moving traffic would be at a significant distance with a backdrop of woodland some way to the south and a foreground of paddocks and fencing. The proposed landscaping would further reduce the visual effect.
11. The footpath is different in that people would be moving slowly, with the aim of appreciating the countryside, and the appeal site would be in view over a longer stretch, from the stile near the lay-by to the point where any view is cut-off by the southern boundary hedgerow. Whilst the appellants were of the opinion that the path is little used, and the entry from the main road was hardly trodden down, the Council pointed out that the path is on a numbered circular walk. The visibility of the site was shown to good effect by the appellants having placed markers on the site, at ground level, whilst the effect of roofs could be gauged in addition. Here again, landscaping could filter views and in this case the backdrop would be either the woodland as before, or the other development along Snipe Lane.
12. Whilst not part of the reason for refusal, there would be public views from the railway line, as most trains stop at Darlington station, a short way to the north, and hence speeds would be relatively low for such a main line. Those views would be elevated and encompass the existing development and that granted permission in 2014, notwithstanding it being in a dip. However, due to the closer proximity, the west-side development along Snipe Lane would feature most prominently and provide a context for the appeal site development at a greater distance and at right angles to the line.
13. The proposed development would not be on the east side frontage of Snipe Lane, but would be along the line of the hedge, eastward from the southern end of the lane. This arrangement has three largely benign visual effects:
 - Firstly, as with the 2014 appeal development, there would be no thickening of the development along Snipe Lane through a repeat on the east side of the west side development, which would be nearer the main road and hence more noticeable.

attached to the use of this private lane being predominantly by people who would be aware of the nature of the junction.

19. In addition to these vehicle movements and accident figures, observations before, during and after the site inspection, and use of the junction by car indicated that there does not appear to be an inherent design failing. There is sufficient width over a sufficient length away from the carriageway for two vehicles to pass, the junction has conventional highway road markings and there is a warning sign on the main road in advance of the junction.
20. Unusually for a trunk road, double yellow lines are in place in the vicinity of the junction. Highways England explained that this was to reinforce the effect of the clearway to people using the nearby sports stadium, preventing parking on the carriageway and verge. As a result it can be reasonably assumed that good inter-visibility would be available between through traffic and that using the junction as there would be no parked vehicles.
21. In conclusion, the addition of the three plots now proposed, when taken with the agreed traffic count figures and an allowance of the six plots not yet occupied, would not increase the use of the junction beyond what it is safely capable of accommodating and with a condition controlling the size of vehicle permitted on the site, highway safety and the free flow of traffic should not be compromised.

Precedent

22. It is reasonable that the Council should express concern on this issue, due to their acceptance of similar development in the area but restricted to the western side of Snipe Lane. The Inspector writing in 2014 for a nearby site on the eastern side referred also to precedent, with the view that the grant of that permission did not 'tie the Council's hands when dealing with other cases'.
23. As reasoned in the first main issue, the relationship with the existing hedgerow and the lack of relationship with the east frontage of Snipe Lane and with land closer to the main road and the footpath are all matters which militate in favour of this development being successfully accommodated within the landscape. In addition, a point would be reached at some stage with further development where the junction onto the A66 would need to be improved. These considerations mean that as with the 2014 permission, any future applications would need to be considered on their merits and should not rely on any precedent set previously.

Other Considerations

24. One of the changes in the 2015 Planning Policy for Traveller Sites is the reference in paragraph 25 that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure. The change is the addition of the word 'very' in the first sentence when compared with the 2012 publication at paragraph 23.
25. As set out previously in this Decision, the land is not truly open countryside, being on the edge of Darlington but separated from it by the trunk road, it is

however need to be added to this condition. For similar reasons further details of the landscaping should be provided. Lastly a condition is required naming the drawings, because otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

Conclusions

32. The site is in the countryside, outside the development boundary of Darlington, but is in reasonable proximity to other gypsy sites, in an area suitable for the use. There would be some limited visual harm initially, but only through this being use of land that is currently open and undeveloped and the long term effect on the wider landscape once landscaping has matured is acceptable. The benefits of an additional gypsy site that is available now and is suitable for permanent use, in an area that has an unmet need, a lack of an identified five-year supply of sites and a delay in the formulation of policy to address the issues, all lead to the conclusion that permission should be granted.
33. The proposal accords with the Development Plan and national policy specific to gypsies and travellers, as well as the aims of the National Planning Policy Framework on the protection of the countryside. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No development shall take place until a comprehensive landscaping scheme, including details of any external lighting, has been submitted to and approved in writing by the Local Planning Authority and this shall include a timetable for its implementation. The scheme shall include details of proposed and retained fencing and hedging. The existing hedges on the site shall be retained at a minimum height of 2 metres. The approved scheme shall be implemented in accordance with the agreed timetable. If within 5 years of the implementation of the landscaping scheme any hedge or plants die they shall be replaced within the next planting season in accordance with the approved scheme.
- 8) No development shall take place until details of the external finishes to the utility blocks have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.

