

Appeal Decisions

Hearing held on 1 April 2014

Site visit made on 1 April 2014

by Gareth Symons BSc Hons DipTP MRTPI

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

Decision date: 27 June 2014

Appeal A: APP/N1350/A/13/2206226

Land east of Walworth Road, Heighington, 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 Mrs T Harker against the decision of Darlington Borough Council.
- The application Ref: 13/00592/FUL, dated 25 July 2013, was refused by notice dated 13 September 2013.
- The development proposed is change of use for a private Gypsy site and stationing of caravans for residential occupation with associated development (hard standing, fencing between plots, utility blocks and installation of septic tank).

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions as set out in the Formal Decisions section.

Appeal B: APP/N1350/A/13/2206246

Land east of Walworth Road, Heighington, 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 T Mounsey against the decision of Darlington Borough Council.
- The application Ref: 13/00594/FUL, dated 25 July 2013, was refused by notice dated 12 September 2013.
- The development proposed is change of use for a private Gypsy site and stationing of caravans for residential occupation with associated development (hard standing, fencing between plots, utility blocks and installation of septic tank).

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions as set out in the Formal Decisions section.

Procedural Matter

1. At the start of the hearing the Council's Development Manager advised that the planning officer due to attend was sick. However, after some discussion and consideration it was agreed by the Council that its case would not be prejudiced by the officer's absence. Therefore, the hearing proceeded with the Council represented by the Development Manager and a planning policy officer. To ensure that there was no matter that the absent officer might have wanted to bring to my attention I kept the hearing open to allow the Development Manager to consult with the case officer on his return to work. The Council has since confirmed that there are no additional points to raise and so I closed the hearing in writing on 9 April 2014.

2. The Council's approach to the situation was pragmatic and very helpful. There was a thorough discussion at the hearing, with contributions from a planning consultant representing a local interest group and input from local residents. I also checked as the hearing progressed that the Council still considered that its case had not been undermined. The Council confirmed this was the case. Against this background and the opportunity allowed for a double check with the case officer, I am very satisfied that the circumstances of the day did not have a negative impact on the Council's position.

Main Issue

3. In relation to Mrs Harker's application (Appeal A), the second reason for refusal related to concerns about the proposed foul drainage arrangements and the risk of pollution to the water environment. This was based on an objection to the proposal from the Environment Agency (EA). However, based on the subsequent results of percolation tests commissioned by the appellant that recommend the installation of a package treatment plant, the EA has requested that a planning condition should be imposed if the appeal is allowed. The Council also confirmed that this was an acceptable approach. I agree.
4. In view of the above, the outstanding main issue for both appeals is the effect of the proposed developments on the character and appearance of the area.

Planning Policy

5. The Council does not dispute the Gypsy status of the appellants. From the written statements and the verbal evidence given at the hearing about the appellants' background and way of life, with strong historical and family connections with the Darlington area, I see no reasons to disagree with this view. Consequently the policy regime applying to Gypsies and travellers, such as the Planning Policy for Traveller Sites (2012) (PPTS) is engaged.
6. The Council identified conflicts with two planning policies. They are policies CS13 *Accommodating Travelling Groups* and CS14 *Promoting Local Character and Distinctiveness* from the Darlington Local Development Framework Core Strategy (CS). CS policy CS14 seeks to protect and, where appropriate enhance, the distinctive character of the Borough's landscape. The Council advises that the sites fall within the Tees Lowlands area identified in the policy.
7. Policy CS13, in short, allows for windfall traveller sites provided that they accord with certain criteria. Those at issue from the Council's point of view are (b) and (e). 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. Criterion (e) seeks to ensure that sites are located and designed so as not to have a significant negative impact on the natural, archaeological or historic environment. There is an overall context that preference will be given firstly to locations within and then adjacent to settlements followed by brownfield land in other locations.
8. The 'tests' in CS13 of sites not having an unacceptable or significant negative impact on existing landscape character and the natural environment mean that proposals can be acceptable as long as any harm caused is below that of unacceptable or significant. Moreover, the preferences expressed for where sites should be do not rule out sites being elsewhere and neither of the CS policies or the PPTS preclude sites from being outside settlements in the

countryside. The policy does not require adherence to a strict sequential test and the Council has not objected to the principle of developing either site.

9. I have taken account of the national Planning Practice Guidance (PPG) launched on 6 March 2014. I agree with the parties that the PPG has not had a material bearing on the policy circumstances or guidance relevant to these appeals.

Reasons

10. The Tees Lowlands is a broad far reaching largely agricultural undulating landscape that provides wide views to the North York Moors and the upland Dales, across the urban fringe, surrounding villages and countryside. The Council's reasons for refusing both applications refer to the sites being typical examples of pasture land located in gently undulating countryside interspersed with hedges, trees and some streams. From the higher vantage point of Highside Road just west of Heighington along the line of a limestone escarpment the rolling lowland nature of the landscape can be appreciated.
11. From here it is also very apparent that the countryside landscape is characterised by other development. In the vicinity of the appeal sites, in the foreground of these wider views, are houses, the Dog Inn public house which although closed at the moment the buildings are still there, farm buildings and barns. Also in this view are the line of the main A68 and a substantial commercial wood chip enterprise at Twinsburn Farm. This has parking for numerous vehicles and trailers, large buildings and areas of outside storage. The existing developments and patterns of tree and hedge lined fields mean that this is not open countryside where development stands out. Irrespective of when development has come along and what for, the landscape has absorbed it without overall serious detriment to its character.
12. From the higher ground at the site visit it was possible to make out where the appeal sites were by reference to other buildings and the movement of lorries going to and from the woodchip business. However, intervening trees and hedges meant that the sites were not readily discernable. This was also at a time of year when the largely deciduous trees and hedges were not out in leaf. Even if the sites became more noticeable with caravans and utility blocks on them they would not necessarily look out of place in a landscape that has a variety of other development dotted and blended within it.
13. The appeal sites are in the corners of two fields that already benefit from hedge and tree screens next to Walworth Road and along their southern boundaries. For Mr Mounsey's site the hedge next to the road is relatively low and it has gaps. However, suitable further native planting would provide a much more effective screen as is the case along the roadside boundaries to the adjoining stables and yard on the corner of Walworth Road and the A68. The roadside vegetation at Mrs Harker's site has fewer spaces but again it could be strengthened. New planting along the other boundaries and controls over external materials and colours of the static caravans and amenity buildings would further soften and assimilate the development into the landscape.
14. In this context the mobile homes would not intrude unduly into views from the footpath to the east of the caravan sites where there is also another line of trees. Hedges along the A68 leading up to the Walworth Road junction mean that the sites would be barely discernable. The domestic use of the sites and

- household paraphernalia, and the parking of vehicles, would not look out of place given that along Walworth Road there are other residential properties.
15. The mobile homes form of accommodation may not have a vernacular appearance. However, there is sufficient variety to the appearance of houses in the area, particularly at the outer edges of Heighington not far away where there are modern estate type bungalows, that the static caravans would not have an unfamiliar style.
 16. The appellants own the adjoining fields. The Council and local residents are concerned about setting a precedent for more sites. However, the fear of precedent only has a basis if a development that is allowed to go ahead would cause some harm and thus set the mould for further harm. As I have found that the appeal developments would be acceptable additions to the landscape then the concern about precedent has very little basis. Furthermore, each proposal should be considered on its individual merits and if cumulative impact is a concern then that should be considered if and when further schemes come forward. There is no evidence that they would here.
 17. The Secretary of State decision referred to by the Council in Warwickshire (Appeal Ref: APP/T3725/A/13/2192556) involved the change of use of land to a gypsy site in the Green Belt. Therefore it involved different planning policy considerations and an exercise of balancing harm to the Green Belt, which must be given substantial weight, against other considerations. The circumstances of the Warwickshire case are thus materially different from those in this appeal and so it has very limited relevance or weight.
 18. Against this background the impact on the existing landscape character of the area would be negligible and certainly well below that of unacceptable or significant adverse impacts. The developments would also protect the wider distinctive character of the Tees Lowlands. Both schemes would thus meet the landscape and natural environment protection aims of policies CS13 and CS14.
 19. The Council also acknowledges that there is a shortfall in its Gypsy and traveller site provision. A Tees Valley Gypsy and Traveller Accommodation Needs Assessment (GTAA) in 2009 identified a need for 142 pitches in the study area by 2021 of which 98 were to be in Darlington. Of these there was an immediate need for 76 pitches to 2016. Since 2009 though the Regional Spatial Strategy has been abolished and the PPTS requires local planning authorities to set pitch targets which address needs in their areas working in collaboration with neighbouring authorities.
 20. In this context the Council has an emerging Making and Growing Places Preferred Options Development Plan Document (DPD) which sets a much lower target of 35 pitches to be provided in the first five years of the plan period. With other windfall sites and an extension to the Council owned site at Neasham Road in Darlington progress is being made on meeting the under provision. However, the DPD has not yet been submitted for examination and so the revised assessment of need has yet to be scrutinised. Therefore, only very limited weight may be attached to the DPD and policy MGP20 from it, particularly bearing in mind that there is still no agreement between the various neighbouring authorities on the matter of apportionment.
 21. The lack of required sites to meet identified Gypsy and traveller needs, whether that is a higher or lower level, adds to the planning policy justification for

allowing the appeals. Moreover, these two sites would accord with the Government's aim of promoting more private traveller site provision.

Other Matters

22. The sites are not far from the Heighington. Whether journeys by occupants of the sites into the village would be made by vehicle or walking, the relatively short distance involved means that this is not a materially unsustainable location. Although Walworth Road apparently floods sometimes thus causing local residents to take a longer route into and out of the village, these temporary events do not mean that travel alone makes the site unsustainable. There are also economic and social factors to be taken into account in the overall sustainability balance such as promoting access to health services, the health and well being of the site's residents and providing a settled base.
23. The Council has referred to the numbers of objections to the schemes and tensions with the local community by reference to the Warwickshire case noted above. However, the circumstances of the Warwickshire case are significantly different in that the size of the site there for 13 pitches was found to have a dominating effect on the 10 or so dwellings in the immediate vicinity. The sizes of these appeal sites are much smaller and there is not an immediate community next to either site. The objections against these proposals also do not to my mind display tensions as opposed to planning objections. There should be no reasons why the sites occupants could not live a peaceful integrated existence with the existing local community.
24. Local services and facilities may be under pressure but the small scale of the residential uses would not have significant impacts in these regards. There are also no objections from service providers such as the local education authority. Ecological concerns raised in relation to previous applications on these sites have been addressed and dropped as reasons for refusal by the Council. I see no reasons to find that there would be harm to nature.
25. There is no objection to either scheme from the Council's highway engineer and from what I saw the accesses would be safe to use. Traffic along Walworth Road would not be materially increased and the road already accommodates without any obvious safety problem traffic to and from the village and the commercial activities at Twinsburn Farm. I have had regard to alleged flooding of the sites themselves. However, there is very limited evidence of this and the Environment Agency did not object to either scheme on this basis.
26. I saw for myself the historic core of the village but the appeal sites are visually well away so as not to have any adverse impacts on heritage assets. I was also shown various other Gypsy sites around the area including at Brafferton, Sadberge and the outskirts of Darlington. However, I have preferred, as required, to assess the individual merits of these appeals rather than draw from conclusions reached on the acceptability of other sites.
27. All other matters have been considered, but none outweigh the earlier findings.

Conclusions

28. It is therefore concluded that both appeals should succeed.

Conditions

29. A condition (no. 2) requiring the developments to be carried out in accordance with the approved plans is necessary in the interests of proper planning and for the avoidance of doubt. Ensuring that the sites are occupied by Gypsies is appropriate given the relevant Gypsy planning policy background (condition 3). Conditions 4 to 10 are necessary to safeguard the character and appearance of the area. Condition 11 is needed to protect water quality.
30. At the hearing it was suggested that condition 4 should seek to ensure that no more than two touring caravans are stationed on the land, instead of referring to static or mobile homes. There may not be a legal definition of what constitutes a mobile home or static caravan but nor is there of what is a touring caravan. It is also well established what is a static mobile home and it would be better to keep this reference as it ties with what is shown on the approved site layout plans for each site.

Formal Decisions

Appeal A: APP/N1350/A/13/2206226

31. The appeal succeeds and planning permission is granted for the change of use for a private Gypsy site and stationing of caravans for residential occupation with associated development (hard standing, fencing between plots, utility blocks and installation of septic tank) on land east of Walworth Road, Heighington, Darlington, in accordance with the terms of the application Ref: 13/00592/FUL, dated 25 July 2013, subject to the following conditions:
- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Proposed Site Layout Plan; Proposed Utility Blocks.
 - 3) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of the Planning Policy for Traveller Sites.
 - 4) 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 or mobile home) shall be stationed at any time on the land.
 - 5) No trade or business may be carried on at the site and no materials associated with any trade or business shall be stored on the site. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
 - 6) No development shall take place until a scheme of hard and soft landscaping, including any proposed alterations to ground levels, has been submitted to and approved in writing by the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority.
 - 7) No development shall take place until a schedule of soft landscape maintenance for a minimum period of five years has been submitted to and approved in writing by the local planning authority. The schedule shall

- include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
- 8) There shall be no external lighting on the site other than in accordance with details previously agreed in writing by the local planning authority.
 - 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting the Order) (with or without modification), no fences or other means of enclosure other than those shown on the permitted 'Proposed Site Layout Plan' shall be erected.
 - 10) No development shall take place until details of the external finishes of the proposed utility blocks and the mobile homes/static caravans have been submitted to and approved in writing by the local planning authority. The utility blocks and the mobile homes/static caravans shall be erected or brought onto the land in accordance with the approved details and they shall be retained as such thereafter.
 - 11) Notwithstanding the description of the development hereby permitted as it relates to the installation of a septic tank, no development shall take place until details of a foul drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details before the residential use of the site commences and it shall be retained and operated as such thereafter.

Appeal B: APP/N1350/A/13/2206246

32. The appeal succeeds and planning permission is granted for the change of use for a private Gypsy site and stationing of caravans for residential occupation with associated development (hard standing, fencing between plots, utility blocks and installation of septic tank) on land east of Walworth Road, Heighington, Darlington, in accordance with the terms of the application Ref: 13/00594/FUL, dated 25 July 2013, subject to the following conditions
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 - 5) No trade or business may be carried on at the site and no materials associated with any trade or business shall be stored on the site. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
 - 6) No development shall take place until a scheme of hard and soft landscaping, including any proposed alterations to ground levels, has been

submitted to and approved in writing by the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority.

- 7) No development shall take place until a schedule of soft landscape maintenance for a minimum period of five years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
- 8) There shall be no external lighting on the site other than in accordance with details previously agreed in writing by the local planning authority.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting the Order) (with or without modification), no fences or other means of enclosure other than those shown on the permitted 'Proposed Site Layout Plan' shall be erected.
- 10) No development shall take place until details of the external finishes of the proposed utility blocks and the mobile homes/static caravans have been submitted to and approved in writing by the local planning authority. The utility blocks and the mobile homes/static caravans shall be erected or brought onto the land in accordance with the approved details and they shall be retained as such thereafter.
- 11) Notwithstanding the description of the development hereby permitted as it relates to the installation of a septic tank, no development shall take place until details of a foul drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details before the residential use of the site commences and it shall be retained and operated as such thereafter.

Gareth Symons

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Heine	Heine Planning Consultancy
Mr Harker	The appellant's husband
Mr Mounsey	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Merrett	Darlington Borough Council
Mrs Williams	Darlington Borough Council

INTERESTED PERSONS:

Mrs Brooker	Bond Dickenson LLP representing the Heighington and District Support Group
Mr & Mrs Marshall	Local residents
Mr Blenkinsopp	Heighington Parish Council
Mr Adamson	Local resident
Sandra Byers	Local resident
Judith King	Local resident
Mr & Mrs Haywood	Local residents

DOCUMENTS

Doc 1	Letter dated 12-2-13 from County Durham and Darlington NHS Trust
Doc 2	Letter dated 17-2-14 from Mr and Mrs Moore
Doc 3	Letter from the landlord of Neasham Road Caravan Park

