



Appeal Decision

Hearing held on 8 April 2014

Site visit made on 8 April 2014

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 1 August 2014

Appeal Ref: APP/N1350/A/13/2206141

Land off Aycliffe Lane, Brafferton, Darlington, County Durham

- 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 Billy Cairney against the decision of Darlington Borough Council.
- The application Ref 13/00433/FUL, dated 30 May 2013, was refused by notice dated 2 August 2013.
- The development proposed is an extension to a private gypsy site.

Procedural matter

1. The Council's refusal notice described the proposal as "the change of use of land to form an extension to an existing private gypsy site for 3 no. additional pitches, each to accommodate 1 no. static caravan and 1 no. touring caravan on each pitch, and a transit pitch for guest car space and touring caravan; and the erection of 3 no. amenity buildings, hardstanding, widening of the access to the site and an internal track with boundary treatment". I consider this to be a more accurate description and have determined the appeal on this basis.

Decision

2. The appeal is allowed and planning permission is granted for the change of use of land to form an extension to an existing private gypsy site for 3 no. additional pitches, each to accommodate 1 no. static caravan and 1 no. touring caravan on each pitch, and a transit pitch for guest car space and touring caravan; and the erection of 3 no. amenity buildings, hardstanding, widening of the access to the site and an internal track with boundary treatment at land off Aycliffe Lane, Brafferton, Darlington, County Durham in accordance with the terms of the application, Ref 13/00433/FUL, dated 30 May 2013, subject to the conditions set out in the Annex to this decision.

Main Issues

3. I consider the main issues to be the effect of the proposal on the character and appearance of the area and whether any harm arising would be outweighed by the need for additional gypsy accommodation having regard to local and national policy, and personal needs and circumstances.

Reasons

Background and the site

4. Appeal decisions (ref. APP/N1350/C/11/2151199 and APP/N1350/A/11/2151190) allowed the change of use of land to a mixed use equestrian /private gypsy site including the siting of 3 touring caravans for a single family with associated hard standing but dismissed the erection of a stable block, tackroom and amenity block. Planning permission was subsequently granted for a stable block (ref. 12/00301).
5. This proposal seeks an extension to the private gypsy site through a change of use of land to form 3 no. additional pitches, each to accommodate a static caravan and a touring caravan, along with the provision of a transit pitch for a guest car space and touring caravan and the erection of 3 no. amenity buildings. The access to the site would be widened and boundary treatment would be provided. Pitch 1 would be occupied by Mr Cairney's son Tom and his wife, Pitch 2 by Mr Cairney's son Billy and his wife, and Pitch 3 by Mr Cairney's mother. The existing access would be widened to allow static caravans to be brought onto the site. The existing metal gate would be replaced with a wooden gate and an access track would be created within the site.
6. The appeal site is situated in an area of open countryside. It lies to the north west of Brafferton and is bounded to the east by Aycliffe Lane, to the north by Lime Lane and to the west by the A1(M). While it is well screened by existing vegetation and undulating topography, views are gained from the Lime Lane bridge across the A1(M) and open views are gained from the north and southbound carriageways of the A1(M). There is no evidence before me to suggest that the area benefits from any special landscape designation.

Policy considerations

7. The development plan includes the Darlington Local Development Framework Core Strategy (CS) and the Saved Policies of the Borough of Darlington Local Plan (LP). CS Policy CS13 is permissive of additional gypsy and traveller sites, where required, including windfall sites, subject to a number of criteria. Those at issue are the impact on landscape character and the natural environment in the overall context that preference will be given firstly to locations within and then adjacent to existing settlements followed by brownfield land in other locations. These environmental objectives are supported by Policies CS14 and CS17 in promoting local character and distinctiveness and safeguarding the open countryside. Policy CS2 also seeks high quality and sustainable design.
8. Saved LP Policy E2 aims to restrict new development to existing development limits with provision for limited exceptions where unacceptable harm to the character and appearance of the area is avoided. In those situations, saved LP Policy E4 indicates that new buildings in the countryside should wherever possible be located with, and be visually related to, existing buildings. The National Planning Policy Framework (NPPF) and the Planning Policy for Traveller Sites (PPTS) are material considerations and I refer to their relevant provisions below.

Character and appearance of the rural location

9. In assessing the character and appearance of the area, I agree with the previous Inspector's opinion when she stated that *the (appeal) site is situated*

in an area of open countryside, to the west of Aycliffe Lane; it is well screened from this road due to the lower level of the site and a well vegetated embankment along the eastern boundary of the site; Lime Lane to the north occupies an elevated position; the site is relatively well screened by existing vegetation with the exception of clear views that are gained from the fly-over bridge across the A1 (M) and open views from the A1(M) although any public views from here are fleeting glimpses given the general speed of traffic travelling along it.

10. The previous Inspector took the view that *subject to the residential element of the development being contained to the area of hardstanding and the siting and number of caravans being restricted, the impact of the use of the site for equestrian activities and a private residential gypsy site for one family would not result in an unacceptable negative impact on the surrounding countryside.* It was concluded by the same Inspector that the proposed siting of a stable block, utility building and a tack room due to their scale and prominence would be harmful to the character and appearance of the area. A smaller stable building was later granted planning permission. This proposal would increase the number of caravans and associated paraphernalia at the appeal site and would increase the area of hardstanding on which they would be sited.
11. In my judgement, the appeal site is not visually prominent and the majority of the area proposed for the siting of the caravans would be well screened from most distant views. While it would be seen from cars passing at speed on the A1(M) and from the Lime Lane bridge over this road, topography and existing vegetation, along with the landscaping approved under planning permission ref 10/00840/CON, would serve to soften the impact of the existing and proposed use of the site when viewed from Lime Lane and the A1 (M). The impact could be further softened by additional landscaping and control over the appearance of any means of enclosure that could be secured by the suggested conditions.
12. Such landscaping would not completely block the proposal from view in accord with Policy H of the PPTS which advises against enclosing a site such that the impression is given that it is deliberately isolated from the rest of the community. In this instance, I consider that the residual visual harm would be restricted to a limited number of short and medium distance viewpoints. However, the position of the appeal site on low lying ground, which is not central in the view from the Lime Lane bridge, would result in the visual harm being of a moderate magnitude.
13. Although the site is not previously developed land, it is closely associated with the existing gypsy site to which it would form an extension. Indeed, the establishment of a residential caravan site has already involved physical change to the land through the provision of a hardstanding for siting the caravans, an access and the erection of the authorised stable block. In which case, the proposed change of use and the introduction of the associated static and touring caravans, and amenity buildings, would not result in a significant encroachment into the countryside. Precedent for further such development was raised as a concern but as each proposal must be determined on its own individual merits, I do not consider that such a generalised fear of precedent is central to my decision.
14. It was drawn to my attention that a gypsy site has recently been granted planning permission on appeal ref. APP/N1350/A/12/2189534 at nearby

Meadow Stables. That Inspector concluded that *the reorientation of the mobile home, and the proposed siting of the touring caravans, renders the structures less conspicuous and with a foreground of vegetation and a mature rising backdrop, the development is neither unduly conspicuous nor intrusive.* For that reason and the vegetation/landscaping associated with this proposal, I consider that the 2 sites, when viewed cumulatively, would not be unduly conspicuous or intrusive.

Need for gypsy and traveller sites

15. It was agreed that The Tees Valley Gypsy and Traveller Accommodation Needs Assessment January 2009 (GTAA) identifies a requirement for 98 additional pitches in Darlington in the period 2007 – 2021, of which 67 are required up to 2014. The specific number of pitches to be provided in Darlington is not included in the CS. The emerging Making and Growing Places Development Plan Document (DPD) will allocate gypsy and traveller pitches in the Borough but as this is at the preferred options stage it attracts very little weight.
16. Nevertheless, the Council's Housing Technical Paper 4 *Accommodating Travelling Groups* was drafted to inform the emerging DPD and states that the GTAA provides a sound evidence base for planning policy documents and does not require a comprehensive update. The appellant argued on the basis of the figures set out in his submitted Table 1 that the 5 year supply in the Borough is 46 pitches. While the Council disputed this figure, it was agreed that there is an unmet need for pitches to accommodate gypsies and travellers and on that basis there is a lack of a 5 year supply of sites.
17. The NPPF and the PPTS state that in addition to delivering a supply of 5 years worth of sites, local authorities should identify a supply of specific, deliverable sites or broad locations for growth for years 6-10, and where possible, for years 11-15. The Council is not presently in a position to satisfy these provisions and from what I heard it is by no means certain that an adopted DPD will be in place by 2015. Against this background, I agree with the previous Inspector who in deciding appeals ref. APP/N1350/C/11/2151199 and APP/N1350/A/11/2151190 opined that *there has been a failure of the Council to make suitable provision to meet identified need over a number of years, and this is a material consideration that can be afforded considerable weight.*

Personal needs

18. The proposal would accommodate an extended gypsy family as set out in paragraph 5 above. The extended family's gypsy status is not in dispute and on the evidence before me, I am content that they satisfy the definition of gypsies and travellers set out in Annex 1 of PPTS. Given the extended family's longstanding local connections I am satisfied that they have a need for a settled base in the Borough.
19. It was not disputed that living together as an extended family is of particular importance. Nor was it suggested that at present there is an alternative site for the extended family to move to that is suitable, available, affordable and acceptable. Neasham Road was put forward but I heard that it was currently full and the 20 additional plots proposed for the site do not yet have planning permission. In addition, the private gypsy site at Snipe Lane would not be suitable for the appellant's extended family as they do not own any of the pitches.

20. In my judgement, a refusal of planning permission would be likely to result in the appellant's extended family having no alternative accommodation available to them. This may result in them resorting to roadside camping and these personal needs are of significant weight in the consideration of this proposal. The loss of the extended family's home would be a serious interference with their human rights under Article 8 of the European Convention on Human Rights: The Right to Respect for Private and Family Life and for the Home. Under Article 8 there is also a positive obligation to facilitate the gypsy way of life.

Personal circumstances

21. I heard that the appellant's mother currently lives in a house but is ill and in need of care and attention. It is proposed that she moves to the appeal site in order that the family can provide this care and attention. I consider that a refusal of planning permission would be likely to have a detrimental effect on the ability of the appellant to care for his elderly mother. These personal circumstances also carry significant weight in the consideration of this proposal.

The balance of considerations

22. In terms of the visual impact, the proposal would result in harm to the appearance of the landscape arising from additional development in the open countryside, contrary to the aims of CS Policy CS13 and PPTS paragraph 23. However, the visual impact of the development could be reduced by the early implementation and appropriate maintenance of a well designed scheme of soft landscaping.

23. I attach significant weight to the undisputed need for additional gypsy and traveller sites in the locality, the failure of current policy to meet that need and the lack of progress in securing future provision through the plan-making process. This lack of a 5 year supply of gypsy sites would not of itself be sufficient to outweigh the identified harm to the character and appearance of the landscape and in this regard I have taken full account of the letters opposing the proposal including those from the Brafferton Parish Meeting and the CPRE. However, I am satisfied of the appellant's need for a settled base. Moreover, the consequences of removal from the site, in terms of the extended family having nowhere else to go, are severe. The combination of these factors is sufficient to outweigh the harm to the character and appearance of the landscape and the conflict with the development plan.

Conditions

24. On this basis planning permission should be granted for the proposed development. A temporary planning permission condition would meet the immediate needs of the family but would impose continuing uncertainty, particularly as the time table for the adoption of the DPD is unclear. As such I do not propose attaching a condition limiting the duration of the permission. As for other conditions, in addition to standard commencement time and the carrying out of the development in accordance with the approved plans, it is necessary to define the extent of the permission in terms of the number of units that may be sited on the land and who may occupy the site, as that forms the basis on which the proposal has been assessed.

25. In addition, I shall attach conditions which preclude commercial activities and the parking of large vehicles on the site so as to safeguard the character and appearance of the area, while comprehensive conditions relating to site layout and lighting, and hard and soft landscaping are justified to address outstanding matters in the interests of visual amenity. However, I shall not attach a condition restricting the movement of caravans on the public highway without sub-division as I do not consider such a condition to be necessary.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed subject to conditions.

Richard McCoy

Inspector

ANNEX

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Block Plan, drawing nos. 01, 02, 03 and 04, and Proposed Wall Elevation.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the PPTS.
- 4) No more than 6 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 shall be a static caravan) shall be stationed on the 3 permanent pitches hereby approved at any time and no more than 1 touring caravan shall be located on the transit pitch.
- 5) No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) No commercial activities shall take place on the site, including the storage of materials.
- 7) Notwithstanding the details in the submitted drawings, no development shall take place until full details of the siting of the proposed caravans and full details of the external appearance of the amenity buildings together with any lighting schemes proposed and all hardstandings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) Notwithstanding the details in the submitted drawings, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include details of proposed fencing and the

extent and height of the existing hedges on the site to be retained. All hard and soft landscape works shall be carried out in accordance with the approved details and with the programme agreed with the local planning authority. 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.

APPEARANCES

FOR THE APPELLANT:

Mr A Moss	Chartered Town Planner, Ward Hadaway
Mr K Sanderson	Chartered Town Planner, Ward Hadaway
Mr B Cairney	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Hobbs	Planning Officer Development Management, Darlington Borough Council
Ms E Williams	Planning Policy Officer, Darlington Borough Council

INTERESTED PERSONS:

Cllr B Jones	Ward Councillor
Mr D Proud	Resident
Mr W Wood	Chair, Brafferton Parish Meeting

DOCUMENTS

- 1 Council's letter of notification of the Hearing
- 2 Committee Report ref 13/00700/FUL Snipe Lane
- 3 Appeal decisions APP/N1350/C/11/2159610, 2159611 and APP/N1350/A/11/2159621
- 4 Tables 1 and 1.2 showing GTAA pitch requirement
- 5 List of suggested conditions

PLANS

- A Extent of appeal site
- B Layout of Neasham Road Traveller Site extension
- C Plan marking location of recent gypsy site approvals

PHOTOGRAPHS

- 1 Aerial photo of Snipe Lane
- 2 View of site from A1

