



Appeal Decision

Hearing held on 29 July 2014

Site visit made on 29 July 2014

by **Louise Crosby MA MRTPI**

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

Decision date: 8 August 2014

Appeal Ref: **APP/N1350/A/14/2217518** **Snipe Lane, Hurworth, Darlington, DL2 1QB**

- 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 Thomas Lee against the decision of Darlington Borough Council.
 - The application Ref: 13/00721/FUL, dated 13 September 2013, was refused by notice dated 30 October 2013.
 - The development proposed is a gypsy site for one plot to accommodate 1 No static caravan 1 No amenity building, 1 No touring caravan and a stable block comprising 2 stables and 1 tack room.
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Decision

1. The appeal is allowed and planning permission is granted for a gypsy site for one plot to accommodate 1 No static caravan 1 No amenity building, 1 No touring caravan and a stable block comprising 2 stables and 1 tack room at Snipe Lane, Hurworth, Darlington, DL2 1QB, in accordance with the terms of the application, Ref: 13/00721/FUL, dated 13 September 2013, subject to the conditions in the attached schedule.

Procedural matters

2. The Council agree that Mr Thomas Lee and his family meet the definition of gypsies and travellers, as set out in Annex 1 of Planning Policy for Traveller Sites (PPTS). Mr Lee's immediate family comprises his wife, Mrs Roseanne Lee and their 4 children; Thomas Jnr (18), Montana (16), Nikita (10) and Charlie (7).

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the character and appearance of the surrounding area; and
 - ii) whether any harm arising from the above matter is outweighed by other matters in support of the grant of planning permission, including any unmet need for gypsy and traveller accommodation and the personal needs, accommodation options and circumstances of the appellant and his family.

Reasons

Character and appearance

4. The appeal site is located not far from the edge of Darlington, just off the busy A66 trunk road. Close by, to the east of the site, is the busy east coast railway line, which runs on top of an embankment. Also visible from the site is the large Darlington football stadium. So while the site is in open countryside it is close to the edge of the built up area of Darlington and close to large scale infrastructure.
5. Nearby, on the other side of this part of Snipe Lane, which is a no-through road, is a cluster of around 10 approved gypsy pitches. These pitches contain both static and mobile caravans as well as amenity blocks. Some also have stables and large garage/workshop type buildings. Although most of this is fairly well screened, the existing enclave of development has altered the character and appearance of this area of open countryside.
6. The appeal site would be located in the southern section of a field owned by the appellant. Planning permission was sought and refused for a similar proposal to that before me in 2013, but on land in northern part of the field. That part of the site is much higher than the appeal site, which sits in a slight bowl in this gently undulating landscape. The development proposed would be modest in scale, consisting of one static caravan, an amenity building and a block of 2 stables and a tack room. The stable block would be sited against the southern boundary of the site, adjacent to a hedgerow. The static caravan and amenity building would be located along the northern edge of the site and would be partially screened by a new hedge. A touring caravan would be parked close to the western boundary and this would also be planted with a hedge.
7. The appellant's field is located to the east of the existing gypsy and traveller pitches and the proposal would be separated from them and Snipe Lane by open fields. However the existing pitches are close enough to the appeal site such that the buildings and caravans can be clearly seen from it, particularly the larger building to the southern end. Consequently it would not appear as an isolated pitch in open countryside. Clearly the character and appearance of this field would change, partly as a result of the long access track to it and partly because of the introduction of a number of structures, car parking and domestic paraphernalia.
8. The impact could be suitably minimised by ensuring that the materials used to construct the access are agreed by the Council. The timber stables in particular would not appear out of place here as they are commonly seen in fields in locations such as this. Moreover, all of the new structures would have modest sized footprints and be single storey in height. Taking into account this and their siting, in a dip in the field, they would not appear unduly visually intrusive and would generally be seen in conjunction with the existing gypsy and traveller development nearby.
9. Within the field are numerous enclosures which are formed from post and rail fencing. It seems that they have been there for some time and are now used to contain Mr Lee's horses. It is the appellant's intention to remove most of the fencing if planning permission is granted for this proposal. It is nevertheless not unduly harmful because of its low height and open nature which allows views through it.

10. One of the Council's concerns is that this proposal would spark the demand for another cluster of gypsy and traveller pitches on this side of Snipe Lane. As I have set out above some of the land on this side of Snipe Lane is elevated and thus any development on it would be likely to be visible from some distance and in this regard is materially different from the appeal site. This sets the appeal site apart from much of the land nearby on this side of Snipe Lane. As such, allowing this proposal would not tie the Council's hands when dealing with other cases which would need to be dealt with on their own merits.
11. The proposal would not result in significant harm to the character of the surrounding area and in only minimal harm to its appearance. It would therefore accord with Darlington Core Strategy (CS) policy CS13, which is permissive of gypsy and traveller windfall sites subject to, among other things, the site being located so as not to have an unacceptable negative impact on existing landscape character.

The need for, and provision of, gypsy and traveller sites and the availability of alternative sites

12. The appellant and his immediate family currently reside at the Neasham Road gypsy and traveller site in Darlington. This site is owned by the Council, but run and managed by a private individual. Mr Lee described the site as a transit site, because of the transitory nature of most of the residents and the lack of facilities there. The Council explained that it is not a transit site, but they are aware that there are few long standing residents living there and accepted that the quality of the site is poor.
13. I saw a photograph of this site and it is a large area of hardstanding surrounded by tall fencing and trees. It was agreed that the shared facilities are poor and that there is no green space at all within the site and nowhere for children to play. From the evidence before me it does not seem to be a suitable site for this family.
14. Prior to living at Neasham Road, the family lived in various places, including in the rear garden of Mr Lee's parent's dwelling. They were forced to move from there by the Council, following complaints from local residents. Mr Lee and his family did live in bricks and mortar for a while, but it resulted in him and his wife separating for a number of months.
15. The Tees Valley Gypsy and Traveller Accommodation Needs Assessment 2009 (GTANA) found that in this area the '*current supply of appropriate accommodation appears to be significantly less than the 'need' identified*'. It identified a need across the 5 Tees Valley local authorities for 142 new pitches in the period 2007-2021. In total it found a need for 98 pitches in Darlington Borough for this period.
16. Since 2007 the Council have delivered 40 pitches, against a requirement of 67. It was agreed at the hearing, that based on these figures there is a residual requirement of 46 pitches to catch up and meet a 5 year requirement for the period 2014 to 2019.
17. The Council consider that the apportionment of pitches in the GTANA was wrong and that Darlington Borough should have been apportioned a smaller requirement. They are currently working on providing updated evidence and have commissioned a new GTANA, but no alternative figures have been

adduced by the Council as part of this appeal. Consequently, they do not dispute that there is an unmet need for gypsy and traveller pitches in the Borough, nor do they claim to have a 5 year supply of sites to meet this and future need as required by paragraph 9a of PPTS. This adds weight in favour of the proposal.

18. The Council's Local Plan Making and Growing Places Plan, updated preferred options consultation (June 2013) says that need in the Borough will be partly met by providing a new modern site adjacent to the existing one on Neasham Road (20 pitches). Funding has been obtained for these pitches and it is anticipated that they will be complete by March 2015. In the longer term it is also proposed to increase the size of the Honeypot Lane site (8-12 pitches). It also identifies small scale provision at 2 other sites. It is anticipated that this plan will be adopted by the end of 2015. Importantly though, it relies on windfall sites to meet the remainder of the identified need.
19. While the appellant and his family have a pitch on a site in Darlington I agree that the quality of that site is poor and not a suitable place to raise children given the lack of safe green space for the younger children and the poor standard of sanitary facilities. There are some empty pitches with planning permission on the opposite side of Snipe Lane, but the appellant explained that these are owned by other families and the plots are earmarked for their grown up children and consequently not available to him. It was agreed that no alternative sites are currently available to the appellant and his family.

Other matters

20. The parish council have objected to the proposed because of highway safety concerns. The proposal would result in a small increase in traffic along Snipe Lane and entering and exiting the A66. I note that the Highways Agency has raised no objections to the proposal, subject to a number of planning conditions. Having visited the site by car I share this view.

Overall planning balance and conclusions

21. Mr Lee and his family are living on a site that it unsuitable and there is a general unmet need for additional gypsy and traveller sites in Darlington. It is accepted by the Council that a portion of this need will need to be met by windfall sites.
22. It is Government policy to encourage more private site provision and reduce the tensions between settled and traveller communities in planning decisions. In this case there has been just one objection to the proposal and that was from the parish council in relation to highway safety and visual amenity.
23. Overall I find that the proposal would not result in significant harm to the character of the surrounding area and in only minimal harm to its appearance. This is far outweighed by the identified general unmet need and lack of suitable, alternative sites.
24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

25. In addition to the standard time condition a condition is necessary to ensure that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. The proposal has been considered in light of the advice in PPTS and therefore it is necessary to control the future occupation of the pitch and ensure that it is available to meet the identified need.
26. I have imposed a number of conditions to control the number and type of caravans and other vehicles at the site as well to prevent any commercial uses taking place. These are necessary to protect the character and appearance of the surrounding area and for highway safety reasons. Also, in the interests of the character and appearance of the surrounding area it is necessary to control external lighting, the materials to be used in the creation of the access and to ensure that a suitable landscaping scheme is implemented and maintained.

Louise Crosby

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Moss Ward Hadaway

Thomas Lee Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Adrian Hobbs Planning Officer, Darlington Borough Council

Emma Williams Planning Policy Officer, Darlington Borough
Council

DOCUMENTS

1. Copy of letter of notification of appeal hearing
2. Photograph of Neasham Road gypsy and traveller site

Schedule of planning conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:500 block plan, elevations and plan of amenity building and plan and elevations of stable block (all dated 16 September 2013).
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 7) Any caravans positioned on the site shall be capable of being lawfully moved on the public highway, without division into separate parts.
- 8) No development shall take place until details of the materials of the proposed access have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and within an agreed timescale.
- 9) No development shall take place until a comprehensive landscaping scheme has been submitted to 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.
- 10) Full details of any external lighting shall be submitted to and approved in writing by the local planning authority. Only the approved lighting shall be installed at the site.

