



Appeal Decision

Hearing held on 17 June 2010

Site visit made on 17 June 2010

by **Wenda Fabian** BA Dip Arch RIBA IHBC

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

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Decision date:
22 July 2010

Appeal Ref: APP/N1350/A/10/2121393 land at Southfields, Snipe Lane, 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 Robert Smith against the decision of Darlington Borough Council.
- The application Ref 09/00239/FUL, dated 14 April 2009, was refused by notice dated 28 August 2009.
- The development proposed is change of use from equestrian to mixed use for equestrian with a private gypsy site for 1 pitch to include an amenity block and hardstandings for 1 static caravan or mobile home, 1 touring caravan and parking for 2 private vehicles.

Application for costs

1. At the Hearing an application for costs was made by Mr Robert Smith against Darlington Borough Council. This application is the subject of a separate Decision.

Procedural Matter

2. The description shown above was agreed by both parties at the hearing.

Decision

3. I allow the appeal, and grant planning permission for a private gypsy site for 1 pitch to include an amenity block and hardstandings for 1 static caravan or mobile home, 1 touring caravan and parking for 2 private vehicles at land at Southfields, Snipe Lane, Darlington DL2 1QB in accordance with the terms of the application, Ref 09/00239/FUL, dated 14 April 2009, subject to the conditions set out in the attached schedule.

Main issues

4. The main issues are the effect of the proposal on the character and appearance of the surrounding area and its effect on highway safety.

Reasons

5. The appeal site is in the open countryside. It is a corner part of a large paddock, which is in the appellant's ownership and is in use as grazing for his horses. Following the grant of planning permission in January 2008, the whole of the appeal site has been laid to hardcore and a timber stable block, comprising five loose boxes, has been built. The appeal proposal is for a
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gypsy site for a single pitch to provide an amenity block (by extending one end of the stable block) with hardstandings for parking caravans as listed above. A septic tank to serve the development would be installed in the paddock.

6. The appellant is a Romany gypsy and until recently lived with one of his adult daughters and her family. They are also Romany gypsies but were unable to find a secure pitch and, around ten years ago, after a roadside existence, felt themselves effectively obliged to move into a conventional house in order to secure schooling for their children then aged between 9 – 15. The appellant moved into the house with them at the same time and slept in the family living room until the summer of 2009, when he moved into a touring caravan on the appeal site. The Council does not dispute the appellant's gypsy status and I see no reason to do so.

Policy background and the need for the provision of gypsy and traveller sites

7. The government's PPS7¹ aims to protect the countryside for the sake of its intrinsic character and beauty and to strictly control all new development in it. This general policy for the countryside is tempered by the government's ODPM Circular 01/2006 '*Planning for Gypsy and Traveller Caravan Sites*' (C01/06), which sets out at paragraph 54 that the use of land for gypsy and traveller sites in rural settings, where not subject to special planning constraints, is acceptable in principle. The appeal site is in a rural location just outside the ring road to the south of Darlington. It is in an area of defined open countryside, but has no other special designation.
8. C01/06 also sets out that there has been a general national failure to deliver adequate sites for gypsies and travellers over the 10 years prior to its publication and that there is now a nationally recognised unmet need for the provision of sites. The circular requires that Local Authorities should assess the need locally for the provision of sites and identify the location of appropriate sites to meet the identified need in their area via a rural exception site policy in their Development Plan Documents.
9. In accordance with this, the Council commissioned the Tees Valley Gypsy and Traveller Accommodation Needs Assessment (GTAA), which was published in January 2009. This shows a requirement in the Darlington area for 61 extra residential pitches in the period from 2007-2012, with a further requirement for 15 extra pitches from 2012-2016. The Council does not dispute that there is a substantial unmet need for gypsy sites and confirmed at the hearing that little if any progress has been made towards meeting the need identified from 2007 onwards. The preparation of the Local Development Framework Core Strategy is underway but is at an early stage, consultations have yet to be carried out and adoption is not anticipated until July 2013 at the earliest. My attention was not drawn to any potential site allocations.
10. There are Council provided sites at Neasham Road and Honey Pot Lane. The Council has suggested that it could work with the appellant to find him a pitch on one of these. However, the Council accepted at the hearing that any pitches that may become available at either of these sites would not be suitable for the appellant due to his social incompatibility with the families that generally occupy them (this aspect has been endorsed in a letter from the

¹ Planning Policy Statement 7: Sustainable Development in Rural Areas

president of the Gypsy Council, submitted in support of the appeal). The appellant also considers that neither of the sites would meet his need to be on hand to look after his horses, particularly at foaling time, and these are a primary source of his livelihood.

11. In the context of the substantial acknowledged unmet need in the area and the acknowledged lack of available alternative suitable sites I can see little policy objection in principle to the proposed use of the appeal site as a single gypsy pitch.

Character and appearance

12. Policy H21 of the *Borough of Darlington Local Plan, 1997*, (LP) allows for the development of private gypsy sites and sets out a number of criteria that such sites should meet. These include that they should not encroach into open countryside, are not prominent and that the occupied part of the development can be adequately screened.
13. The landscape in the vicinity of the appeal site is generally level and is in agricultural use. It is within a large triangular area of land bounded by the main east coast railway line (around 200m from the appeal site), the A66 main trunk road (on a raised embankment about 300m to the north) and by Snipe Lane, a private single track tarmac road. At the north of the appeal site, close to the A66, there is a house and former farmyard on Snipe Lane, which has been partly converted to a single pitch gypsy site. To the south, beyond the appeal site, the lane terminates alongside the railway at a stable block and yard. Land on the opposite side of the lane is generally open, divided by fences into moderately sized paddocks in use for grazing, with views across to farmsteads just visible in the distance.
14. The appeal site and paddock are enclosed to the north and along Snipe Lane by well established high field hedges, with an existing wide access via a pair of metal field gates directly into the appeal site from the lane. It is divided from the adjacent 2 hectare paddock by post and rail timber fences, with some recent hedge planting, and access to the paddock is via the appeal site. The Council has acknowledged that the appeal site is generally well screened from distant views, other than from on trains passing by (generally at speed) on the railway. These views could be screened by further hedge planting between the site and the paddock and this could be ensured by the suggested condition.
15. I agree that there are clear views into the site from the lane when directly passing the access, but these existing views of the large stable block and hardstanding would be little altered; the proposed amenity block extension would be at the far end of the stables and the parking of a static and a touring caravan would not be significantly different to the parking of large vehicles, such as horseboxes, which arises from the current authorised use.
16. Moreover, the proposed caravans would be located in a corner of the site close to the existing mature hedge and further screened by a large tree at the roadside. I consider that the appeal site is not prominent and that the majority of the occupied part would be well screened from all views, other than those directly into the site at the access gate. Further, as the appeal site has already been developed by the construction of the substantial authorised stable block, the proposed change of use and the introduction of the associated static and

touring caravans would not result in a significant encroachment into the countryside.

17. I conclude that the proposal would not harm the character and appearance of the countryside and would comply with local and national policy in this respect.

Highway safety

18. LP policy H21 also requires that gypsy sites should make adequate arrangements for access to and from adjoining highways. Whilst the highway authority with responsibility for the A66 (the Highways Agency) has not objected to the proposal, the Council's highways officer considers that the layout of the junction of Snipe Lane with this main trunk road is inadequate for the type of traffic that would be generated by it.
19. The A66 at this point is not a dual carriageway and the national speed limit of 60mph applies. Traffic volumes recorded on it are substantial (around an annual average of 20,800 vehicles per day of which about 7.3% are heavy goods vehicles). There are warning signs for the cross roads at Snipe Lane in both directions and there is a 1m wide cross hatched strip at the centre of the carriageway. Whilst there is no designated right turn lane, in practice I have seen that the overall width of each carriageway, combined with the central strip, is such that there is sufficient width for vehicles to pass a stationary vehicle waiting to turn into the lane. At the junction there is also sufficient width in the lane (5.5m to at least 6m back from the junction) for an incoming vehicle to pass one waiting to exit.
20. The Highway Agency's *Design Manual for Roads and Bridges* provides geometric design data for major/minor priority junctions. The parties agree that for this type of junction the requirement is for a visibility splay of 9m in the 'x' direction and 215m in the 'y' direction. However, notes to this data allows for a relaxation in the 'x' direction down to 4.5m, for lightly trafficked simple junctions and the appellant suggests this is appropriate in this case. On the basis of all that I have seen and heard I take this junction to be eligible for such a relaxation; the lane is a cul-de-sac, single carriageway and very lightly trafficked, with a recorded volume of around 45 vehicles per day in each direction along it. At the site visit it was apparent, from site measurements agreed by the parties, that (despite extensive summer growth on roadside planting) the 'y' component of the visibility splay is adequate in both directions at around 5.5m back from the junction. This is within the 9m – 4.5m range for the 'x' component and, accordingly, I take the visibility at the junction to be adequate for traffic to leave the lane safely in either direction.
21. This conclusion is borne out by my own experience: at the time of my site visits, the first at a peak period before the hearing, I saw that traffic was fast moving, at or below the speed limit and steady but with regular gaps between groups of vehicles. I experienced little difficulty in turning across the oncoming traffic both to access and to leave the lane. I also note that only one personal injury traffic accident has been recorded (in 2007) during a 13 year period in relation to the junction and this was recorded as slight in terms of severity.
22. The Council agreed at the hearing that a single gypsy pitch may be taken to equate to a residential household in terms of day to day trip generation and this would be likely to be around 6 trips per day. When living away from the

site, the appellant's equestrian use of the paddock and stables has resulted in daily trips to and from the site and these trips would cease were the appeal allowed, such that the net additional traffic to and from the site could be less than this.

23. I appreciate that from time to time during the year and more frequently in the summer months the proposed use would result in a vehicle towing a touring caravan at the junction, but this would arise at most a few times per week and would be little different to the towing of horse boxes or other agricultural machinery that arises from existing authorised uses of the appeal site and other adjacent land uses along the lane. The presence of a large static caravan being towed at the junction would be unlikely to arise with any significant frequency as it would be a semi-permanent installation. This would be no different for instance to the annual need for agricultural harvesting trailer equipment, which could be expected in this location.
24. In my assessment, it is reasonable to predict between 4 – 6 trips per day to and from the site and this would not add significantly to the existing number of vehicles leaving and entering the junction. These were recorded in a survey commissioned by the appellant during the period 06:00 to 22:00 in February day in 2009, which showed 45 movements into and 46 out of the junction in total; an average of between 3.1 – 3.8 vehicles in and out per hour, with peak hour movements recorded as 9 in and 7 out. These figures have not been disputed by the Council.
25. I am aware that in an appeal decision in 2003 relating to the provision of 6 gypsy caravans for 4 families off Snipe Lane, the inspector reached a different assessment on highway safety. However, I do not know what highways evidence or detailed junction measurements, if any, were available to the inspector at that time and, furthermore, the number of vehicle trips generated by that proposal would have been significantly greater than in this case, such that traffic in and out of the lane would have been doubled by it. I have taken the previous case into account in reaching my decision, but have reached my different assessment on the basis of the particular circumstances of this case and the current evidence available to me.
26. I conclude that the proposal would not cause harm to highway safety and would accord with local policy.

Other matters

27. Policy H21 also requires that development will not result in disturbance affecting occupiers of existing land or buildings. The appeal site is in an isolated location, separated from the nearest dwelling by a large field and I do not take a modest increase in traffic along the lane to be an overriding objection in this regard. In relation to access to public transport and local services, extensive services in the urban centre of Darlington are a short bus trip away (15 minutes). There are bus stops with regular services to it within reach, around 1km along Snipe Lane, although (like the nearby public footpath) this crosses the A66. Moreover C01/06, published since adoption of the Local Plan, clarifies that in assessing rural locations for gypsy sites local authorities should be realistic about the availability of alternatives to the car in accessing

local services. I have seen that mains electricity and water are already in place at the stable block, also in compliance with policy H21.

Conditions

28. For the avoidance of doubt and in the interests of proper planning a condition specifying the approved drawings is necessary. In line with C01/06 a condition restricting use of the site to gypsies and travellers is necessary. To safeguard the appearance of the rural surroundings conditions are necessary restricting commercial vehicles and activities and to control the number, siting and type of caravans as well as requiring the submission of further details of the static caravan, hedge planting and hedge maintenance. A restriction on the number of resident families is unnecessary in addition to the more standard condition, restricting the number of caravans. As the whole appeal site is already surfaced with hardcore, there is little likelihood of risk from ground contamination to residential occupants and the suggested condition in this respect is unduly onerous.

Conclusion

29. Taken all in all, there is clear acknowledged unmet need in the area for additional gypsy pitches, there are no identified suitable alternative sites, little prospect of additional provision in the short or medium term via site allocations and the proposal for a single gypsy pitch meets each of the criteria set out in LP policy H21. For the reasons given above I conclude that the appeal should be allowed.

Wenda Fabian

Inspector

Schedule of 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: Dwg No 02 Site Layout Plan as proposed and Dwg No 04 Plans and Elevations as proposed.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 4) The residential use hereby permitted shall be restricted to the stationing of no more than 2 caravans at any time (of which no more than 1 shall be a static caravan or mobile home).
- 5) Within three months of the date of this decision, details of the materials of the proposed static caravan or mobile home shall be submitted to the local planning authority and it shall be installed in accordance with the approved details.
- 6) Any caravans positioned on the site shall be capable of being lawfully moved on the public highway without division into separate parts.
- 7) Within three months of the date of this decision a scheme for hedge planting (including details of native species, plant sizes and proposed numbers and densities) shall be submitted to the local planning authority and the scheme shall include a timetable for its implementation. The scheme shall include details of existing hedges on the site to be retained and these shall be maintained at a minimum of 1.8m high. If, within 5 years of the implementation of this permission, any new or retained hedge plants die they shall be replaced within the next planting season in accordance with the approved scheme.
- 8) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 9) No commercial activities shall take place on the land, including the storage of materials.

