



Appeal Decision

Site visit made on 1 February 2022

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/N1350/W/21/3268831

Land off Neasham Road/Burma Road, Hurworth Moor, Darlington DL2 1PZ

- 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 and Mrs Tyers against the decision of Darlington Borough Council.
 - The application Ref 20/00822/FUL, dated 11 September 2020, was refused by notice dated 25 January 2021.
 - The development proposed is creation of 4 Gypsy/Traveller Pitches.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. s70(2) of the TCPA 1990¹ and s38(6) of the Planning and Compulsory Act 2004, require that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. Since the appeal was lodged, the Council has adopted the Darlington Local Plan (2016-2036), adopted 17 February 2022, (DLP) which replaces policies cited on the original decision notice. In the interests of natural justice, the main parties have had the opportunity to make representations. Therefore, I have determined the appeal on this basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In reaching my decision I have had regard to the revised Framework.
4. Prior to the determination of the planning application the appellants submitted plan 'PL04'. The Council did not determine the application on this basis. In support of the appeal, the appellants have included this additional plan showing visibility. The Council has had the opportunity to comment on the plan, and I do not consider that its interests would be prejudiced if I take this plan into account. I shall therefore determine the appeal for planning permission on the basis of the plans at the time of determination, as well as the plan submitted as part of this appeal.

Main Issues

5. The main issues are (i) whether the appeal site is a suitable location for the proposed development; (ii) the effect of the proposal on the character and appearance of the area; and (iii) the effect on highway safety.

¹ The Town and Country Planning Act 1990 (as amended)

Reasons

Suitability of Location

6. The Government's Planning Policy for Traveller Sites (PPTS) states that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas in the development plan.
7. Policy H9 of the DLP allows new gypsy and traveller sites where the site has satisfactory access to local schools and other amenities. Policy DC1 sets out the sustainable design principles, including that good design will help to reduce carbon emissions and increase the resilience of developments to the effects of climate change. Policy IN1 focuses on delivering a sustainable transport network, encourages greater use of sustainable modes, identifying priorities and actions that all new developments will provide permeability and connectivity for pedestrians and cyclists being the first choice for short journeys.
8. The appeal site lies outside of any defined settlement boundary, within the open countryside and is approx. 1.25km to the south of Darlington. The nearest villages would be Hurworth or Neasham. The DLP identifies the settlement hierarchy including that Hurworth is a service village that offers a range of essential facilities and services and the rural village of Neasham, which offers limited-service provision.
9. There is an absence of formal footways linking the site with the wider area including along Burma Road and Neasham Road, and the highways are devoid of any street lighting. The site is near to an advisory cycle route with connectivity to a wider cycle network. There is a bus stop further along Neasham Road, which operates during the daytime and includes Saturday and Sundays, serving Hurworth. Despite this, access and navigation would be difficult by walking or cycling, given the road conditions and that this would be unrealistic throughout the year, particularly in winter months.
10. As such, the opportunities to use sustainable modes of transport are restricted, and I consider that most journeys to and from the appeal site would be made by private motor vehicles, whether to nearby villages of Hurworth or Neasham, or to the larger urban centres of Darlington. However, these journeys to reach facilities and services within the nearby villages would not be unduly long and Hurworth offers a range of facilities including shops and schools.
11. I am mindful that paragraph 105 of the Framework explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In any event, the provision of a settled base for 4 gypsy households would facilitate access to local facilities, services and schooling, and reduce the likely extent of long-distance travelling, in line with paragraph 13 of PPTS.
12. In consideration of the location, I have had regard to other developments the appellants have drawn my attention to, in respect of location accessibility. Whilst I do not have full details of these cases, they do appear to be similar in distance to the accessibility of local services and facilities. However, in any case I must consider the appeal on its own merits.

13. The appeal site is not in a location away from settlements where traveller sites should be very strictly limited in accordance with PPTS, and it would enable reasonable and satisfactory access to local schools and other amenities. Necessary utilities are capable of provision within the appeal site. On this basis, I conclude that the appeal site is a suitable location for gypsy and traveller accommodation and would accord with DLP policies H9, DC1 and IN4, in locational terms.

Character & Appearance

14. DLP Policy DC1, requires proposals to reflect the local environment and create an individual sense of place with distinctive character, and is supported by Policy ENV3. The policy seeks to protect the character and local distinctiveness of villages and rural areas, and states that development should positively respond to the landscape setting and protect and enhance the natural quality of the rural landscape.
15. DLP Policy H9 allows new sites to be provided for gypsy and traveller sites where, amongst other things, the site is clearly demarcated with pitch boundaries using appropriate boundary treatment and landscaping sympathetic to, and in keeping with the surrounding area.
16. The appeal site is set back from Neasham Road with access from Burma Road. The site is generally flat and identified as a grazing field. It would neighbour an existing approved gypsy and traveller site to the south. Nevertheless, it adjoins extensive areas of open fields and the wider countryside to the west, and the site relates closely to it.
17. In contrast, the proposal would introduce residential use with a new private access road and provision of four plots each with a static unit, tourer caravan space and associated vehicles. Each of the plots would have its own supporting utility / amenity building constructed of brick. The site is constrained by existing overhead power lines to the western part with an area identified as a no build zone. This results in the plots being sited further into the field and resulting in an excessively long private access road.
18. Although the site would be screened to the north and west due to the extensive tree / hedge coverage, the site would still be viewed from the east across the landscape and the layout would erode this open part of the countryside between Darlington and the outlying villages. The existing mounds would do little to protect this, or the proposed layout of plots, given the flat nature of the area and the structures and vehicles associated would also be a notable intrusion.
19. In addition, when viewed in combination with the existing sites it would result in further intrusion, creating an undue negative cumulative impact on this part of the rural landscape. The appellants have referred to the existence of the nearby site and legacy of a municipal tip, but this does not sufficiently justify a visually harmful development, such as this. Moreover, the site would still be directly visible from public views at the access point along Burma Road, and I have no substantive evidence that additional landscaping or boundary treatment would adequately mitigate the proposal in this regard, or that suitably worded conditions could address the harm.

20. My attention has been drawn to an appeal decision², to the south of the appeal site. However, this related to a disputed condition, and the site was already established with landscaping. The scheme also pre-dated the Framework and PPTS. Accordingly, the circumstances are not directly comparable with those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.
21. For the reasons given above, I conclude that the proposal would cause adverse harm to the character and appearance of the area. This would be in conflict with Policies DC1, ENV3 and H9 of the DLP, as I have already set out. It would also be at odds with the principles of the Framework to recognise the intrinsic character and beauty of the countryside.

Highway Safety

22. Policy DC1 of the DLP requires all development proposals to provide suitable and safe vehicular access and suitable servicing and parking arrangements in accordance with Policy IN4. Policy H9 allows new gypsy and traveller accommodation where there is safe access for pedestrians, cyclists and vehicles, including for turning and parking, vehicles towing caravans, emergency services and servicing requirements, including waste collection.
23. The Framework at paragraph 110, requires that in assessing sites for specific applications for development, it should be ensured that b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
24. There is an historic agricultural access that serves the appeal site and would appear to have been underutilised for some time. This would need to be extensively modified due to the intensification of use from the proposal. As I observed at the time of the site visit the access point is heavily overgrown with excessive vegetation. This significantly reduces visibility at the site on either side of the carriageway. Burma Road is narrow in width with minimal space along the carriageway to enable vehicles to pass each other safely. It is restricted due to the road alignment to circa 80m northwards measured from a point 2.4m back from the edge of the carriageway, and further restricted southwards with circa 35m of visibility available.
25. The Council set out that the minimum visibility required would be 2.4m x 215m in both directions based on the national speed limit of 60mph. The Council's position is that safe visibility splays could not be achieved unless it can be demonstrated otherwise with a sound evidence base. To enable two-way passage of vehicles, localised widening of Burma Road would need to be provided inline with Manual for Streets, which advises a width of 4.1m.
26. The width of the access itself, would need to be modified to provide sufficient geometry to enable the delivery of mobile homes, as well as space for a touring caravan and towing vehicles to use the entrance. The width would also need to

² APP/N1350/A/11/2153205/NWF

- be modified for the provision of fire appliance and waste refuse collection vehicles to access the site.
27. The appellants have submitted a speed survey in support of the proposal. Whilst there is no dispute regarding the speed survey methodology undertaken or that speeds would be lower at times than the national limit, the submitted visibility splay plan 'PL04' lacks in detail and does not address highway safety concerns for all road users. I am not satisfied this plan accurately reflects the alignments of the carriageway in both directions due to the road conditions, particularly to the north, nor is it reflective of obstructions including the concrete posts which appear to be on third party land running along the side of the edge of the carriageway. I would also disagree that it is properly kerbed on both sides, there are limited households on Burma Road or that lack of third-party maintenance justifies the acceptability of PL04.
28. Even if, I were to agree with the appellants that 60m splays in either direction would be acceptable on this road. I have no evidence in regard to the modification of the site access width to accommodate vehicles entering and leaving the site, no swept analysis undertaken or indeed how the appellants intend to demonstrate that two-way traffic is possible for safe access and egress for occupants of the site and for other road users along Burma Road.
29. In addition, it is unclear how the appellants would be able to modify the site access or maintain any visibility splay with the hindering vegetation, fencing and concrete posts, given that the land fronting the access does not appear to be within their control. The site edge red does not include the access itself, nor does the blue line represent that the appellants own the access entrance as shown on the submitted plans.
30. Furthermore, I have no substantive evidence that the Council has not responded on highway matters, and it is clear from the emails that consideration was given to the appellant's highway comments. Thus, I would concur with the Council that at the time of determination there was not a sound evidence base to outweigh the highway safety concerns that the proposal would have on occupants of the site and other road users. Or indeed, that suitably worded conditions could satisfactorily address or mitigate this.
31. Therefore, and based on the available evidence, I conclude that the proposal would cause significant harm to highway safety. Consequently, it would be in conflict with Policies DC1, H9 and IN4 of the DLP, which taken together these policies seek developments that provide suitable provision and safe access for all road users, including pedestrians, cyclists and all vehicles.
32. Moreover, the proposal would be contrary to paragraph 111 of the Framework, which requires development to be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Other considerations

33. The DLP makes provision for travelling groups at the existing larger council owned sites together with other smaller sites in the borough to accommodate gypsy and travelling groups. The Gypsy and Traveller Accommodation Needs Assessment (2017) and addendum (2020), (GTAA) was carried out and identified in total 162 pitches. The GTAA concluded that the Borough was well catered for with an annual need of 1 pitch per annum between 2017-2022.

Further need for pitches between 2022-2037 has a calculated projection of 46 pitches, with an annual need of 3 pitches.

34. The DLP sets out there are three existing larger council owned sites at Honeypot Lane and Rowan East & West, which are safeguarded to provide for accommodation needs. In addition, there are a significant number of unimplemented planning permissions on private land within the Borough.
35. The Council have set out they have a 5-year rolling supply, including the supply of 25 pitches from the Rowan East extension, and recent developments. There are still transit pitch availability on Honeypot Lane, with the caravan count due to take place again within the year. The appellants disagree with the Council's assessment, and contend that it has a shortfall. However, I have limited evidence to suggest that the Rowan East extension would not be forthcoming following Homes England funding and its allocation in the recently adopted DLP, or that Honeypot Lane could not be a realistic alternative, including suitability needs or acceptability. I have also had regard to a recent appeal³ that the Council has drawn my attention to, which relates to an additional pitch on the adjacent site.
36. From the evidence before me, at present, the 5-year requirement is 13, which can be met at the current time through opportunities to use vacant and allocated pitches on existing sites. The proposed extension would contribute to the ongoing 5-year supply.
37. The appellants confirm they come from a long line of gypsies who continue to live a gypsy lifestyle through choice. The appellants are existing residents on an established gypsy site in a neighbouring borough and the proposal would allow their children, now of adult age to live in the area amongst established families and relatives. I acknowledge the letters of support which the appellants have provided, and that the Council does not dispute the appellants' PPTS status.
38. However, it is unclear whether all plots would be occupied by the appellants adult children. I also have no substantive evidence of alternative sites that may have been sought nearby or in the neighbouring boroughs.
39. The proposed development would not cause any harm in respect of the living conditions of neighbouring residents, contamination and biodiversity. I have no evidence that the proposal would give rise to an increase in fear or rise to anti-social behaviour or crime in the area nor lead to increases in flooding, as the site lies within Flood Zone 1. Suitably worded conditions could address drainage within the site. However, these considerations do not outweigh the harm I have already identified.

Planning Balance

40. The proposal would cause harm to the character and appearance of the area, and I afford this moderate weight. I attach substantial weight to the harm to highway safety and that the safe and efficient operation of the highway network in the vicinity of the appeal site would be compromised to a significant degree. The proposal would be contrary to the development plan in these respects.

³ APP/N1350/C/21/3266271

41. In the overall planning balance the benefits of the proposal, including the provision of 4 additional gypsy and traveller pitches, are not sufficient in this case to outweigh the harm I have identified.
42. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellants and extended adult family, who intend to occupy the site have protected characteristics for the purposes of the PSED. However, after having regard to all material considerations, I am satisfied that the aim of avoiding unacceptable harm to highway safety can only be adequately addressed by dismissal of the appeal. Any interference with the human rights of the appellants, their family and potential occupants of the site is therefore necessary and proportionate.

Conclusion

43. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
44. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR