

DARLINGTON BOROUGH COUNCIL

APPEAL AGAINST ENFORCEMENT NOTICE

REF. NO:	21/0002APPENF
APPEAL REF. NO:	Appeal Ref: APP/N1350/C/21/3266272 & 3266273
LOCATION:	Land on the northeast side of Neasham Road Hurworth Moor Darlington DL2 1QH
DESCRIPTION:	Unauthorised stationing of four caravans for residential use
APPELLANT:	Mr Robert Flannigan and Mr Mitchell Flannigan

BRIEF SUMMARY:

The appellants appealed against an enforcement notice (as set out below). One of the grounds for appeal was ground A (that planning permission ought to be granted for the development). The appeal succeeded on these grounds and the Enforcement notice was quashed and appeal allowed, and planning permission granted subject to conditions.

KEY POINTS TO NOTE:

- An Enforcement Notice was issued to the appellants setting out that without planning permission, 4 touring caravans have been stationed on the land for residential use (2 of them being very recently occupied for that purpose) and that together with the works referred to at (2) and (3) below this constitutes an unauthorised change of use of the land from paddock land to a new private Gypsy, Traveller site; (2) the making of an unauthorised site access onto the land from Neasham Road; and (3) the laying of hardcore materials on the land to form an access road and hard standing, removal of hedgerow, the erection of fencing, gates and dog kennels and the installation of services for power and drainage of utility buildings (the works).
- The requirements of the notice were to: (1) Cease residential use of the land and remove from the land all caravans, utility buildings, dog kennels and associated vehicles; (2) Remove the new access, access road, gates, fencing and hardcore materials from the land; and (3) Reinstate the land to its condition immediately before the breach of planning control took place including, without prejudice to the generality of this requirement, the removal of any rubbish and debris in connection with this unauthorised development and the closure of the site access by replanting of the hedgerow at that location.
- The inspector considered the case put forward by the appellant and the Council and the following conclusions were made:

- i) The site is sustainably located for the provision of Gypsy and Traveller Accommodation and accords with policy H9 of the Local Plan in this regard.
- ii) The effect on the character and distinctiveness of the rural area is acceptable and the development accords with Local Plan policies ENV3 and H9 in this regard.
- iii) Suitable and safe vehicular access can be achieved, to accord with Local Plan policies DC1 and H9 in this regard.
- iv) Subject to mitigation by means of appropriate conditions, the development would not have significant adverse effects on biodiversity or geodiversity. Furthermore, and subject to payment of the identified credits, it would contribute to protecting, maintaining, and managing the SPA. Accordingly, the use and associated operational development accord with policies ENV 7 and ENV 8 of the Local Plan.
- v) Provided appropriate further measures are identified and implemented, the site is suitable for a private Gypsy, Traveller site and unacceptable risks to human health or the environment will not arise. The development would therefore accord with policies DC 1, DC 4 and H 9 (criteria d iii, d v and d vi) of the DLP and is acceptable in this regard.
- vi) **The Council's current Gypsy and Traveller Accommodation Needs Assessment underestimates the Borough's need.**
- vii) The provision of Gypsy and Traveller accommodation on small private sites is consistent with the Council's expectation of windfall sites and is allowed for by Local Plan policy H 9, subject to criteria d i to vi, which the inspector considered to be met.
- viii) The inspector gave weight to the personal circumstances and needs of the appellants.

APPEAL ALLOWED UNDER GROUND A (that planning permission ought to be granted) subject to conditions as the site is sustainably located to provide windfall accommodation within the framework of Local Plan policies to meet the needs of the appellants and their dependants. Subject to relevant details being secured through appropriate conditions, the effects on the character of the area, highway safety, ecology and the living conditions of occupiers can be adequately mitigated.