
Appeal Decision

Hearing held on 7 October 2015

Site visit made on 7 October 2015

by **B.Hellier BA(Hons) MRTPI**

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

Decision date: 28/01/2016

Appeal Ref: APP/H0738/W/15/3032500

Field No.5453, Thorpe Road, Carlton, Stockton-on-Tees

- 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 John Jones against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 14/2884/REV, dated 31 October 2014, was refused by notice dated 19 December 2014.
 - The development proposed is change of use of land to a private gypsy site to accommodate 1 static caravan, 2 touring caravans, 3 parking spaces and an amenity block.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to a private gypsy site to accommodate 1 static caravan, 2 touring caravans, 3 parking spaces and an amenity block in field No.5453, Thorpe Road, Carlton, Stockton-on-Tees in accordance with the terms of the application, Ref 14/2884/REV, dated 31 October 2014, subject to the conditions set out in the accompanying Schedule.

Procedural matter

2. Although the appeal site address on the application form was Holms Lane this is the name of the private road running along the western boundary of the site. Access to the site is from the minor road between Carlton and Thorpe Thewles and known as Thorpe Road. It was agreed that I should use Thorpe Road as the correct address.

Main issues

3. I consider the main issues are:
 - The effect of the proposal on the character and appearance of the surrounding countryside.
 - Whether this is an accessible location.
 - Whether any harm identified would be outweighed by other considerations, including the general need for gypsy sites and the accommodation needs and personal circumstances of the appellant.

Reasons

Planning policy

4. The development plan includes the Core Strategy¹ and the saved policies of the Local Plan (LP)². Core Strategy Policy CS9 addresses the provision of gypsy sites. In deciding where to provide sites locations in or adjacent to existing settlements will be considered in the first instance. The policy supports the continuation of gypsy site provision at the existing Council owned site at Bowesfield Lane. It also sets out criteria for any new sites. Criterion (i) requires the site to be accessible to schools, shops, health care and other local facilities. Policy CS2 seeks to ensure that new development is serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, so as to provide alternatives to the use of private vehicles and promote healthier lifestyles.
5. With regard to character and appearance Policy CS10 expects development to be integrated with the protection and enhancement of biodiversity and landscape, an objective which accords with one of the core planning principles in the NPPF³ that the intrinsic character and beauty of the countryside should be recognised, as should supporting thriving rural communities within it.
6. National guidance on gypsy sites is set out in Planning Policy for Traveller Sites (PPTS)⁴. Sites may be in rural or semi-rural surroundings but they should not be of a scale to dominate the nearest settled community (Policy C). Paragraph 25 states that local planning authorities should very strictly limit new traveller development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
7. The Council seeks also to rely on LP Policy EN13 which severely restricts development, including gypsy sites, outside the existing development limits of settlements. However this restrictive approach is at odds with Policy CS9 and with Policy C and paragraph 25 of the PPTS. To this extent it should be treated as out of date.

Character and appearance

8. The surrounding countryside is gently undulating lowland. It is a working agricultural landscape where large arable fields predominate. In places there are smaller mixed use fields and paddocks often associated with farmsteads and the landscape here is more intimate. This is the case along Thorpe Road between the villages of Carlton and Thorpe Thewles where there are small groups of dwellings, farm buildings and stables. Generally the roadside and field hedges are strong and there is good tree cover around the buildings.
9. The appeal site is about 500m as the crow flies from the outskirts of Carlton being part of a field of some 4.5ha. The field is bounded by a well maintained hedge on all sides and is currently used for horse grazing. At its north end, furthest from the road, it has been sub-divided into smaller paddocks and there is a stable block and barn. The land is physically separated from Carlton Grange Farm and the livery stables/residential properties to the north and east

¹ *Stockton-on-Tees Core Strategy* Development Plan Document. Adopted March 2010

² *Stockton-on-Tees Local Plan* Adopted June 1997

³ *National Planning Policy Framework* DCLG March 2012

⁴ *Planning Policy for Traveller Sites* DCLG August 2015

by a railway line. There is little inter-visibility with these buildings or with Greystone House to the west which lies behind intervening woodland.

10. The appeal site is between the stable block and the road. The stable block to the north and the boundary hedge to the east provide a backcloth but to the south and west the development would be in an open setting. Caravans by their nature are highly visible and a residential use would introduce vehicles and domestic appurtenances such as washing lines and play equipment. The appellant would focus his horse breeding activities here and it is likely it would become a base for associated vehicles including a horsebox. The site is not visible from public footpaths but the exposed southern edge of the development would be apparent to drivers on Thorpe Road particularly in the winter months when the roadside hedge would be less effective as a screen. It would also be visible from the private roads to Carlton Grange Farm and to Greystone House.
11. The appellant proposes a block of tree planting to screen the development from the road and a new hedge on the open west side of the site. Such planting is found around other nearby clusters of development and would not be out of character. I note that the landscaping scheme for the barn approved in 2011 included a very similar tree planting proposal but this has not been implemented. Nonetheless the Council has enforcement powers to ensure conditions are complied with should this prove necessary. Over time a properly managed scheme would soften the visual impact of the proposal although it would take several years for it to become effective. From the south the view of the development would be intrusive but the impact would be localised, being restricted principally to drivers of passing vehicles, and would be mitigated over time by the planting proposals. Overall there would be no more than a moderate adverse effect on the appearance of the surrounding countryside.

Access to services

12. The nearby village of Carlton has a small village shop and post office and a regular bus service to Stockton-on-Tees. The Council has recently approved an estate of 36 dwellings outside but adjoining the village boundary. It accepts that residential development in or adjacent to the village has adequate access to services.
13. Getting to the village from the appeal site involves a walk of some 450m along Thorne Road until a footway is reached at the start of the built up area. Over this distance pedestrians have to walk in the road or on the grass verge. The road is unlit and outside the 30mph speed limit. The appellant mentioned that some vehicles travel too fast, recording one accident where a vehicle had gone into his hedge. I consider walking along this stretch of road is dangerous and entirely unsuitable for children or the elderly. The appellant suggested that he would travel by horse and cart which is to be commended. Even so I conclude that most occupiers of the site would have little option but to rely on the use of a car for journeys.
14. This conclusion was also reached by the Inspector in a recent appeal for a dwelling associated with the nearby livery stables who found that a new dwelling here, slightly further away from Carlton than the present proposal, would not perform well in terms of accessibility to local services¹.

¹ Appeal Ref APP/H0738/A/14/2212023 Becksides Livery, Bank Terrace, Thorpe Thewles, Stockton-on-Tees

15. There was discussion as to whether the site was *away from* the village for the purposes of paragraph 25 of the PPTS and I was referred to a recent nearby appeal where two gypsy pitches had been permitted in a location that was 2.6km from the nearest services¹. By their nature gypsy sites tend to be on the fringe of towns and villages and I find that the appeal site location would not be unreasonably away from the village or conflict with paragraph 25. However the appeal location is not immediately adjacent to the village and would be less satisfactory than one which was within safe walking distance. This adds some further moderate weight against the proposal.

General need

16. In 2012 the Council undertook a gypsy and traveller accommodation needs assessment (GTNA) which updated an earlier 2009 regional assessment. Based on these findings it is estimated that there is currently an unmet need for some 4 pitches and a total need for the five year period to 2020/21 for about 12 pitches. The appellant argues that there is also an additional unmet need for the period 2007 to 2012 as established in the regional assessment but I am not persuaded. The reality is that the constituent authorities within the region are now carrying out individual assessments. The 2012 GTNA included an up-to-date needs survey and set a new baseline.
17. On the other hand the 2012 calculation includes a contribution to supply in the first five years of 14 pitches falling vacant due to turnover at the Council owned Bowesfield site. It is not explained where the occupiers who create these vacancies go. It may be that this is due to net out-migration or sole tenants dying but I would expect these factors to be built into the need calculation on the demand side. It seems a high figure and leads me to treat the figures put forward by the Council as a minimum requirement. This unmet need weighs significantly in favour of the proposal.

Policy failure

18. The Council has been aware since at least the regional assessment of need was published in 2009 of the scale of undersupply of pitches that needed to be addressed through the identification and allocation of sites. In 2010, in the justification to Policy CS9, it stated that it would identify additional sites. The 2012 GTNA established a locally set supply target. Subsequently a consultation draft of a Gypsy and Traveller Site Allocations Development Plan Document (DPD) was issued in February 2014. The appeal site was put forward by the appellant as a potential allocation. However in July 2014 the Council abandoned the DPD and is no longer proposing to produce one in the future. It therefore has no means to satisfy its obligation under paragraph 10 of the PPTS to provide a supply of deliverable sites to meet the five year target referred to in paragraph 16 above.
19. This failure to identify and allocate sites through the development plan process to meet needs must add further weight in support the proposal.

Accommodation needs of the appellant

20. The appellant, Mr Jones, was born into a travelling Romany Gypsy family. He started living independently at an early age in a caravan on the Bowesfield site.

¹ Appeal Ref APP/H0738/A/14/2219596 and 2219674 Highbridge Paddock, Uraly Nook Road, Eaglescliffe, Stockton-on-Tees

His wife is also a gypsy and when not travelling they stayed on a number of sites in the region, including Neasham Road and Honeypot Lane in Darlington. With a young family they moved in about 2000 to a conventional dwelling and currently occupy a house on the outskirts of Darlington with their three children John (aged 19), Charlene (17) and Henry (10). The house has a building at the rear which houses traditional travelling equipment. There is also a caravan currently occupied by John (junior) who has recently married.

21. Mr Jones has a substantial interest in horses although he describes it as a hobby rather than a business. At present it is stated that the family owns 64 horses and 2 foals with over 30 foals expected over the next few months. The animals are kept in a number of locations, including the appeal site. Horses are traded at the traditional horse fairs and both he and his son travel away for several months of the year. I am satisfied on this evidence that both men have a nomadic lifestyle, travel for an economic purpose and so fall within the planning definition of a gypsy.
22. Mr Jones obtained permission for the barn in 2011. He then applied for planning permission in 2012 for a five-bedroom house and a triple garage on the appeal site and, when this was refused, in 2013 for a four-bedroom dormer bungalow and triple garage. This too was refused. In both cases the paperwork shows that applications were submitted with the knowledge of Mr Jones and that the property was to be occupied by his family and was to have provided the focus for their horse keeping operations.
23. Mr Jones and his family have lived in conventional housing for some 15 years and the history of applications on the appeal site show that they do not have a cultural aversion to such accommodation. Their present property in Darlington is in an area where a number of gypsy families live and there is no suggestion that they are culturally isolated. Mr Jones is a considerable entrepreneur. As well as his interest in horses, I learnt of his involvement in three businesses, including a recycling brokerage and a land and property enterprise.
24. When Mr Jones acquired the land and stables there was a condition limiting it to private use and precluding its use for a business. A similar condition was applied to the permission for the barn. He was living in Darlington at the time and invested in the site in the knowledge that he would have to travel or to find someone locally to care for the horses. Many people purchase land on which to keep horses but they do not expect or need to live on the land.
25. Reference is made to an appeal at Snipe Lane in Darlington¹. The appellant in that case was already living on the site and had some horses. The proposal was to extend the site to enable his two sons to live near him. The use as a residential gypsy site was established and the only substantive planning issue was road safety. It is not helpfully compared with the present case.
26. Whilst Mr Jones has an understandable aspiration to live on the appeal site nothing has been put to me to suggest that his present living accommodation is unsatisfactory except that it is not particularly close to the appeal site. It was suggested at the hearing that John (junior) would wish to move to the appeal site independently, yet in the response by the appellant to the standard gypsy questionnaire completed as part of the appeal process his move to the site was considered only a possibility. I conclude that the specific

¹ Appeal Ref APP/N1350/A/12/2173539 Land at Snipe Lane Stables, Snipe Lane, Darlington

accommodation needs of Mr Jones and his family add little support to the proposal.

Personal circumstances

27. Henry receives home tuition and relocating to the appeal would halve the travelling time for his tutor. I give little weight to this matter and no other health or education or other family issues were put forward.

Planning balance

28. There is a significant shortfall in gypsy site provision in Stockton-on-Tees and further significant weight attaches to the failure of the Council to address future provision through the development plan. One of the aims of the Government is to promote more private traveller site provision. The proposal would contribute positively both to this aim and to the identified shortfall.
29. The landscape is not designated. I find that the visual effects would be localised and cause only moderate harm to the appearance of the countryside. The location is reasonably accessible. The balance lies clearly in favour of the proposal for a single gypsy pitch.
30. This being the case there is no need to consider the accommodation needs of the appellant and his family. However for the record the history of applications for bricks and mortar accommodation on the land and their present accommodation do not provide grounds to convince me that they have a need for a gypsy pitch on the appeal site or anywhere else.
31. Reviewed against Policy CS9 my judgement is that the accessibility criterion (i) would be satisfied. The policy gives preference to locations which are within or adjacent to settlements but it does not rule out other locations. In the absence of alternative more accessible locations I do not consider there would be any conflict with this policy. The development would be reasonably integrated into the landscape in accordance with the objectives of Policy CS10.
32. There would be conflict with two development plan policies. Reliance on the motor car would be contrary to the objectives of Policy CS2. The site also lies outside the defined development boundary to Carlton contrary to LP Policy EN13. However this conflict is outweighed by the need to make provision for gypsy sites and the compliance with Policy CS9 which postdates Policy EH13.

Conditions

33. Agreed suggested conditions were put forward by the parties and I have also had regard to the tests set out in paragraph 206 of the NPPF. Standard conditions are needed to cover commencement and compliance with approved plans. Gypsy policies apply so occupancy should be limited to persons who satisfy the planning definition. In the interests of visual amenity caravans should be limited to the number and type applied for and a hard and soft landscaping scheme agreed based on the submitted layout. For the same reason there should be control over lighting.
34. Commercial uses would be out of place in this quiet rural location and the number and size of commercial vehicles parked on the site should be restricted. The submission and approval of surface water and foul drainage arrangements would also be necessary. There is also a highway requirement

for the entrance gates to be set back 15m from the road to allow towing vehicles to pull off the highway.

Other matters

35. Representations from Redmarshall Parish Council and other residents argue that the restriction on building conventional housing in the countryside outside settlement boundaries should also apply to gypsy sites.
36. It is the aim of Government to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers whilst respecting the interests of the local community. Economics, if nothing else, have dictated that historically gypsy sites tend to be on the fringe of urban and rural settlements. Both the gypsy and settled communities usually find it more comfortable if they are not living cheek by jowl. These differences are reflected in national policy where the locational test applied is whether the site would be away from settlements. Policy CS9 also allows flexibility for gypsy sites to be outside settlement boundaries.
37. Underlying both conventional housing and gypsy site policies is a presumption in favour of sustainable development. There are economic, social and environmental strands to sustainability. In this case the economic strand is neutral but the social strand represented by the need to increase the supply of gypsy sites carries greater weight than the modest environmental harm to the countryside and to travelling patterns.
38. The appellant broached the possibility that he would station a residential caravan on the site whether or not the appeal was allowed. Unsurprisingly this is not a consideration which I have taken into account. It is however worth saying that following a recent national planning policy statement¹ intentional unauthorised development is now a material consideration which would weigh against a proposal in the determination of planning applications and appeals.

Conclusion

39. For the reasons given above I conclude that the appeal should be allowed.

Bern Hellier

INSPECTOR

Schedule of conditions (10)

- 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: 1:2500 site plan; Plan 01 (existing site layout); Plan 02 (proposed site layout); and Plan 03 (proposed amenity block).
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary to Planning Policy for Traveller Sites (DCLG August 2015).

¹ *Green Belt protection and intentional unauthorised development*. Planning Policy Statement issued 31 August 2015.

- 4) No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than 1 shall be a static caravan, shall be stationed on the site at any time.
- 5) No development shall take place until a landscaping scheme based on the approved layout has been submitted to and approved in writing by the local planning authority. This shall include details of hard surfaces; means of enclosure; a hedge along the western boundary; and a block of tree planting to the south. Soft landscape works shall include a schedule of plants, noting species, plant sizes and proposed numbers/densities, and details of fencing to protect the planting from livestock. The scheme shall be implemented in the first planting season following any residential use of the site or the completion of the amenity block which ever is the sooner. If within five years of implementation any plant dies it shall be replaced in accordance with the approved scheme within the next planting season.
- 6) No development shall take place until details of surface water and foul drainage have been submitted to and approved in writing by the local planning authority. The drainage works shall be carried out as approved before any residential use of the site.
- 7) No development shall take place until details of lighting have been submitted to and approved in writing by the local planning authority. The lighting shall be provided in accordance with the approved details before any residential use of the site and retained thereafter.
- 8) No development shall take place until details of the access onto Thorpe Road have been submitted to and approved in writing by the local planning authority. The details shall include a 15m set back of any gates and the provision of a 4.5m x 120m visibility splay in accordance with the recommendations in a memo from the Head of Technical Services dated 27 November 2014. The access works shall be carried out before any residential use of the site and retained as approved thereafter.
- 9) No commercial activities shall take place on the land, including the storage of materials.
- 10) Apart from a single horsebox no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

APPEARANCES

FOR THE APPELLANT:

Mr Andrew Moss	Planning Consultant
Mr John Jones	Appellant
Mr John Jones (Junior)	Son of appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Elaine Atkinson	Senior Planning Officer
Ms Rebecca Wren	Spatial Planning Officer

DOCUMENTS

- 1 Core Strategy Implementation Plan (Policy CS9)
- 2 Core Strategy Objective 12
- 3 Timetables for bus services 84 and 21/21a
- 4 Appeal decisions APP/H0738/A/14/2219596 and 2219674 Highbridge Paddock, Urlay Nook Road, Eaglescliffe, Stockton-on-Tees
- 5 Approved landscaping plans for barn application 11/2019/FUL dated 10 October 2011