



Appeal Decision

Hearing held on 26 June 2019

Site visit made on 26 June 2019

by B Bowker Mplan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2019

Appeal Ref: APP/E0915/W/18/3210077

Land opposite Washbeck Paddock, Broomfallen Road, Scotby CA4 8DE

- 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 & Mrs T Forsyth against the decision of Carlisle City Council.
 - The application Ref 17/0388, dated 2 May 2017, was refused by notice dated 9 March 2018.
 - The development proposed is change of use of land to mixed agricultural and use for one residential caravan for gypsy family and one touring caravan, amenity block, day room and treatment plant.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 15 July 2019.

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to mixed agricultural for the stationing of 1no. residential caravan and 1no. touring caravan for residential purposes for 1no. gypsy pitch together with the formation of hard standing, pony paddock, treatment plant and amenity block/day room ancillary to that use, at land opposite Washbeck Paddock, Broomfallen Road, Scotby CA4 8DE, in accordance with the terms of the application 17/0388, dated 2 May 2017, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development used above in paragraph 1 is taken from the Council's decision notice, which more accurately reflects the permission sought. In the interests of precision, 'land opposite' has been added to the site address to reflect its location in relation to Washbeck Paddock.
3. Since the submission of the appeal, an appeal¹ (the 2019 appeal) was allowed for development involving the keeping of horses, and up to three caravans for residential occupation and associated development at Oak Meadow. The development at Oak Meadow derives its access from the same public bridleway as the appeal proposal would. Following the appeal decision at Oak Meadow, the Council confirmed at the hearing that it no longer objects to the proposal on highway safety grounds and does not seek to defend its decision. The

¹ APP/E0915/W/18/3202754, decision date 4 February 2019.

Council have also raised no concerns regarding the proposal's associated vehicular use of the bridleway.

Main Issues

4. The main issues are:

- The effect of the proposal on the safety of, and the recreational experience of users of the bridleway; and,
- Whether any harm arising from the proposal would be outweighed by other considerations, including the need for traveller sites and the personal circumstances of the proposed occupiers.

Reasons

Bridleway

5. The appeal site comprises a hardcore surfaced area located opposite a gypsy site (Washbeck Paddock). The site is also immediately surrounded by fields and is accessed by an unlit public bridleway that extends towards Broomfallen Road. The proposed occupants comprise the appellants' son (who lives at Washbeck Paddock with his parents) and partner (who lives in London). During the hearing, concerns were raised by a local councillor regarding the increasing vehicular use of the bridleway. The local councillor also endorsed the initial comments made by the highway authority prior to the 2019 appeal decision.
6. Including consideration of the width, surface, topography, alignment and use of the bridleway, and the proposal's modest increase in use, the Inspector concluded that the 2019 appeal was just about acceptable and would not lead to an unacceptable impact on highway safety, or severe residual impacts. I also note the comments of the Inspector who allowed appeals² for four sites involving gypsy pitches that would use the bridleway for access.
7. The S-bend does not provide adequate levels of inter-visibility between highway users. However, there are opportunities for vehicles and non-vehicular users to pass one another at the top and bottom of the S-bend, as identified by the previous Inspector. In addition, owing to the surface and alignment of the bridleway, traffic would travel at relatively slow speeds, including further along near the appeal site due to speed bumps. Furthermore, the section of the bridleway near the appeal site is relatively straight, level, and would offer sufficient inter visibility between bridleway users and passing places. The section of bridleway close to Broomfallen Road also offers sufficient inter-visibility and spaces to pass for users.
8. Against this backdrop is the likely level of additional comings and goings associated with the proposal. As the appellants' son already drives to and from Washbeck Paddock, additional vehicular journeys along the bridleway would be limited to the touring caravan and those associated with the pony paddock. Based on what I heard at the hearing, journeys associated with the pony paddock and transporting the touring caravan would be infrequent. Whilst the intended future occupants do plan to have children, natural fluctuations in vehicular usage across other gypsy sites utilising the bridleway would likely counter any future additional journeys to and from the site.

² APP/E0915/W/15/3127903, 3127905, 3127907 and 3130384, decision date 27 April 2016.

9. In addition, whilst visitors would travel to and from the site, the scale of the proposal is modest, and comings and goings would have been associated with a stable which used to occupy the site. Circumstances are likely to change in the future, including when different occupiers reside at the site. However, occupation of the site would be limited by the number of caravans and the size of the amenity building. In addition, comings and goings would involve vehicles similar in size to what has already been permitted along the bridleway. Thus, additional vehicular comings and goings associated with the proposal would be modest and similar in vehicle size.
10. Consequently, based on the conditions of the bridleway, the previous site use, the absence of any evidence of highway conflict on the bridleway and the modest increase in vehicular use associated with the development, the proposal would not cumulatively have an unacceptable effect on the safety or recreational experience of bridleway users. My conclusion on this matter is reinforced by the Inspector's 2019 appeal decision and the subsequent absence in objection from the Council.
11. Therefore the proposal would not result in an unacceptable effect on the safety of, and the recreational experience of users of the bridleway. Consequently the proposal would meet the requirements of policies HO11 and Policy SP6 of the Carlisle District Local Plan, and paragraph 109 of the National Planning Policy Framework (the Framework). These require development to be safe, accessible, inclusive to everyone and not have an unacceptable impact on highway safety or have severe residual cumulative impacts on the road network.

Other Considerations

12. The Council have not contested that the occupants would meet the Planning Policy for Traveller Sites gypsy and traveller definition: on the evidence before me I have no reason to take a different view. In terms of the need for and availability of gypsy sites, the Council set out that the situation remains unchanged from that set out in the 2019 appeal decision which concluded that the Council has a five-year supply of deliverable sites to meet locally set targets. No substantive evidence is before me to challenge this conclusion. This aside, LP Policy H011 supports additional permanent residential pitches that meet its criteria. In addition, the PPTS aims to promote more private traveller sites.
13. The appellants set out that their son and partner intend to start a family together, and as such require their own space and privacy, which cannot be provided at Washbeck Paddock. Furthermore, neither the appellants nor the Council were able to identify alternative gypsy sites which would meet the need of the proposed occupants for a settled base. Moreover, the Council did not dispute the appellants' view that the proposed occupants would have to live by the roadside if the appeal was dismissed.
14. The above factors indicate personal need and policy support for the proposed gypsy site that would outweigh any adverse effects associated with the proposal in respect of the safety and recreational experience of the bridleway and local character and appearance. I have also taken into account a general concern set out by the councillor at the hearing regarding education and doctor capacity in Carlisle. Thus, permission should be granted for the development.

Conditions

15. Where necessary the conditions suggested have been amended to comply with paragraph 55 of the Framework and advice given in the Planning Practice Guidance.
16. The relevant drawings should be specified to provide certainty. A condition restricting site occupancy to gypsy and travellers is necessary to reflect the permission sought. A personal condition is also necessary based on the justified need of the proposed occupants. Conditions relating to caravan numbers, vehicle sizes, site restoration and commercial activities are necessary to protect local character and appearance. As the siting of the caravans, site layout and details of the amenity building are set out in the proposed plan, conditions requiring a detailed layout plan and details of external materials for the amenity building are not necessary.
17. In the context of the PPG, the need for landscaping, boundary treatment and external lighting details to be a pre-commencement condition is fundamental to the acceptance of the development to preserve local character and appearance. Similarly, a pre-commencement condition requiring approval of foul and surface water details prior is fundamental to the acceptance of the proposal to ensure that the site is adequately drained.

Conclusion

18. For the reasons given above, subject to the attached conditions, the effect of the proposal on the safety and recreational use of the bridleway would be outweighed by the personal need for the proposed development. As such, the appeal is allowed.

B Bowker

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: Location and Block Plan drawing no 23/2017/1 and Proposed Amenity Unit drawing no 23/2017/2.
- 3) Construction of the amenity building hereby permitted shall not commence until samples or full details of the external materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites August 2015 (or its equivalent in replacement national policy).
- 5) The occupation of the site hereby permitted shall be carried out only by the following and their resident dependants: Thomas Forsyth (junior) and/or Michaela Charlotte.
- 6) When the land ceases to be occupied by those named in condition 5 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place or in accordance with other restoration as agreed in writing by the local planning authority.
- 7) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan or mobile home, shall be stationed on the site at any time.
- 8) No commercial activities shall take place on the land, including the storage of materials.
- 9) No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted, and this vehicle shall not exceed 3.5 tonnes in weight.
- 10) Before any development hereby approved commences, a scheme hereafter referred to as the Site Development Scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include:
 - the detail and type of any boundary treatments;
 - the means of surface water drainage, including percolation tests where appropriate and future management arrangements;
 - details of any external lighting; details of any landscaping including tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities,

- a timetable for the implementation on the site

The development shall than be undertaken in accordance with the approved details.

APPEARANCES

FOR THE APPELLANTS:

Vicky Forsyth Appellant

Thomas Forsyth Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Richard Maunsell Planning Officer

INTERESTED PARTIES:

Steven Higgs City and Parish Councillor