



Appeal Decision

Site visit made on 5 November 2019

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 18th November 2019

Appeal Ref: APP/L2630/W/19/3221663

Romany Meadow, The Turnpike, Carleton Rode, Norfolk NR16 1NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr John Leveridge against the decision of South Norfolk District Council.
 - The application Ref 2018/2514, dated 9 November 2018, was refused by notice dated 11 January 2019.
 - The application sought planning permission for the change of use of land for a private site for six traveller residential pitches, including six mobile homes, six amenity blocks and two touring caravans; the repair and part replacement and change of use of existing buildings for the storage of vintage horse-drawn touring caravans, materials for the restoration and construction of vans, hay storage and stables; and the formation of a new access and the construction of a foul drainage system without complying with a condition attached to planning permission Ref 2010/1203/F, dated 29 June 2011.
 - The condition in dispute is No 2 which states that: *The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.*
 - The reasons given for the condition are set out in the appeal decision ref: APP/L2630/A/10/2141026 dated 29 June 2011.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for a private site for six traveller residential pitches, including six mobile homes, six amenity blocks and two touring caravans; the repair and part replacement and change of use of existing buildings for the storage of vintage horse-drawn touring caravans, materials for the restoration and construction of vans, hay storage and stables; and the formation of a new access and the construction of a foul drainage system at Romany Meadow, The Turnpike, Carleton Rode, Norfolk NR16 1NL in accordance with the application Ref 2018/2514 dated 9 November 2018, without compliance with condition No 2 previously imposed on planning permission Ref 2010/1203/F dated 29 June 2011 but subject to the conditions set out in the attached schedule.

Background and Main Issue

2. Planning permission was originally granted for the use of the appeal site as a private traveller site with six pitches in 2009. The condition on that permission which limited occupation of the site to the applicant, his family and relatives was varied on appeal in 2011 to one which simply restricted occupancy to gypsies and travellers as defined in the then extant Circular.

3. The appellant now seeks to further vary the permission to allow up to three of the pitches on the site to be used for general residential use.
4. The main issue is whether the condition is still necessary in the interests of meeting the need for gypsy and traveller pitches¹.

Reasons

5. The most up-to-date assessment of the need for traveller pitches is set out in the Greater Norwich Authorities Norfolk Caravans and Houseboats Accommodation Needs Assessment (ANA) published in October 2017. The ANA forms part of the evidence base for the emerging Greater Norwich Local Plan (GNLP). Greater Norwich comprises Norwich City, Broadland and South Norfolk Councils.
6. The GNLP is at draft consultation stage so has yet to be examined. Therefore, limited weight can be attached to the emerging plan and its supporting evidence base. However, the ANA is the latest and best available evidence. It identifies a potential need for pitches going forward up to 2036 of between 31 and 60 pitches depending on whether a narrow or wider definition of travellers is used. However, the need identified in the first five years from the base date of the GNLP (2017-2022) is very low.
7. That said, based on my experience, assessments of traveller need often tend to under-estimate the number of pitches required. Moreover, there is a shortage of pitches generally through the country which is recognised in Planning Policy for Traveller Sites (PPTS) and which is given effect by Policies A and B of the national planning policy which seek to increase the number of traveller sites. Furthermore, the figures for need identified in the ANA would have taken into account existing provision and supply, including the available pitches on the appeal site. Therefore, if those pitches are no longer available to travellers, which would be the consequence of removing the condition, then the need would increase.
8. Obtaining planning permission for traveller pitches is often more difficult than for other forms of development, including 'bricks and mortar' housing. Therefore, reducing the provision and supply as now proposed could prejudice the ability of the Council to meet the needs of the traveller population. The consequences would be that families would be more likely to have to resort to unauthorised sites, illegal encampments or living on the side of the road. This can lead to increased tensions between travellers and the settled population. It also has implications for the health and well-being of travellers and the best interests of their children in particular.
9. The appellant indicates that, if the condition remains, the pitches would not be taken up in the near future. However, they would remain available to meet longer-term needs, including those arising from the formation of new households from, or the extended family of, existing occupants.
10. There are those who do not meet the definition of travellers and live in the area who may be in need of 'affordable homes'. However, there are no mechanisms for ensuring that the pitches would be available for an affordable price, other than the caravan use. Moreover, different planning considerations apply to the location of housing for the settled community compared to those applying to

¹ Elsewhere in the decision I have used the term 'traveller' as a shorthand for 'gypsies and travellers'

traveller sites. These are set out in paragraphs 77-79 of the National Planning Policy Framework, the PPTS, Policy 4 of the Core Strategy² and Policy DM 3.3. of the Development Management Policies Document³.

11. I conclude that the condition is still necessary in the interests of meeting the need for gypsy and traveller pitches. I have taken into account that mixing the traveller and settled community would assist in social integration but this and the benefit of providing affordable accommodation would not outweigh the harm that would be caused by the loss of the traveller pitches.
12. Although the type of control of occupancy provided by the condition is still necessary, condition No 2 as worded refers to ODPM Circular 01/2006 which is no longer extant. Therefore, I propose to grant a new permission with condition No 2 reworded to reflect the definition within PPTS.
13. A grant of planning permission under section 73 creates a new permission, even if, like this case, the changes are modest. Therefore, I need to consider whether it is necessary to impose the other conditions from the previous planning permission.
14. The site layout plan submitted with the current appeal is a revision of that referred to in the 2011 appeal decision. Therefore, I will refer to the updated plan 08/190/PL01/Rev M where relevant. There are no details of materials on this drawing, so I have retained reference to the plan referred to in condition no. 6 on the previous appeal decision.
15. The main parties have provided information about the status of some of the other conditions imposed on the previous planning permission. Condition no. 5 (drainage, landscaping, the access road and some parking) has been discharged. The conditions relating to materials, tree protection and parking still remain relevant to the plots that have not been developed. However, there are no details of tree protection on plan 08/190/PL01/Rev M so I do not refer to it within condition no. 7. Controls on the number of caravans, commercial activities, lighting and the position of entrance gates are still necessary in the interests of the character and appearance of the area and highway safety.
16. It is not clear whether condition no. 11 (ecological recommendations) on the previous permission has been discharged so I will reimpose it. In the event that it has in fact been discharged, that is a matter which can be addressed by the parties.
17. A condition preventing the occupation of one of the utility buildings as a separate unit of accommodation is not necessary as such a change would amount to a material change of use requiring planning permission.
18. For the above reasons condition no. 2 is necessary but needs updating to reflect current policy and guidance. Therefore, I allow the appeal but only to the limited extent of rewording condition No 2.

Mark Dakeyne

INSPECTOR

² Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011

³ South Norfolk Local Plan Development Management Policies Document adopted October 2015

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1:2500; Site layout plan, elevations and floor plans Drawing No: 08/190/PL01/Rev M; and Drawing No 08/190/PL02 as amended by letter from the Council to Mr Cole dated 19 August 2009.
- 2) 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 (or its equivalent in replacement national policy).
- 3) No more than eight caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than six shall be static caravans or mobile homes) shall be stationed on the site at any time.
- 4) No commercial activities shall take place on the land, including the storage of materials, except for the storage of timber used for the off-site restoration of traditional gypsy caravans. No external storage of materials shall take place on any part of the site.
- 5) The materials used for the external surfaces in the construction of the amenity blocks and in the repair and part replacement of the existing buildings not yet carried out shall be those specified on drawing ref 08/190/PL02, as amended by the letter from the Council to Mr Cole dated 19 August 2009.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no external lighting shall be installed other than in accordance with details that have been submitted to, and approved in writing by, the local planning authority.
- 7) No further development shall take place until existing trees have been protected in accordance with the Arboricultural Implications Assessment dated 15 January 2009. Nothing shall be placed or stored in any area fenced in accordance with this condition, the ground levels within these areas shall not be altered, and no services shall be laid there. None of the trees shall be topped, lopped or felled without the written approval of the local planning authority.
- 8) Any gates erected at the site access shall be set back at least 5m from the nearside edge of the carriageway of The Turnpike and shall be fitted so as to prevent them opening towards that road. Any side-walls, fences or hedges adjacent to the access shall be splayed at an angle of 45 degrees from points at least 5m back from the nearside edge of the carriageway towards the highway.
- 9) None of pitches Nos 4-6 (Units Nos 4-6 on Site layout plan ref 08/190/PL01/Rev M) shall be occupied until the parking space for that pitch has been provided in accordance with the plan.
- 10) The recommendations and enhancements in the Ecological Surveys Report of April 2009 by M Finnemore and I Hoffman shall be implemented in accordance with the timetable contained therein at appendix 1.