



Appeal Decision

Hearing held and site visit made on 19 November 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/G2713/W/3229807

OS Field 1961, Broughton Grange, High Street, Great Broughton TS9 7HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Billy Foster against the decision of Hambleton District Council.
 - The application Ref 17/02137/FUL, dated 30 September 2017, was refused by notice dated 30 November 2018.
 - The development proposed is described on the application form as 'proposed extension and change of use of existing building, being used as a day room, to independent dwelling to replace existing residential caravan'.
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Decision

1. The appeal is allowed and planning permission is granted for the extension and change of use of an existing building, being used as a day room, to an independent dwelling to replace the existing residential caravan at OS Field 1961, Broughton Grange, High Street, Great Broughton TS9 7HE, in accordance with the terms of the application Ref 17/02137/FUL, dated 30 September 2017, subject to the conditions below.

Main issue

2. The main issue is the effect of the development proposed on traveller site provision.

Reasons

3. Following policy CP8 of the Core Strategy ('CS'), policy DP14 of the Development Policies Development Plan Document ('DPD') allows for some flexibility as to the location of traveller sites.¹ It sets out how they should be located within 'reasonable' distance of services and facilities, in contrast to CS policy CP4 where in-principle support is accorded to housing within settlement boundaries. That approach is in recognition of the particular needs of travellers and also the challenges of finding suitable pitches. References to 'travellers' in this decision is to the planning definition of such persons, as set out at annex 1 to Planning policy for traveller sites (published August 2015, 'PPTS2015').
4. The appeal site falls outside the settlement boundary set via the CS for the service village of Great Broughton. In 2007 the development boundary to the west of the High Street (B1257), on which side the appeal site falls, was drawn some distance away northwards by No 122. At that time, as now, the settlement boundary to the east of the B1257 extended nearer the appeal site, incorporating No 153 and running alongside Water Beck. Water Beck

¹ Adopted 3 April 2007 and 26 February 2008 respectively.

represents a clear physical feature demarcating the rural surroundings to Great Broughton east of the B1257. It tracks under Grange Bridge and glances the northern edge of the appeal site.

5. Access to the appeal site is from the B1257, via the first driveway beyond Grange Bridge if proceeding southwards from the village. That access is shared with five dwellings created via the conversion of agricultural buildings originally associated with nearby Grade II Listed Broughton Grange. Otherwise the appeal site is subject to no particular protection on account of landscape character or heritage. Planning permission for the use of the appeal site as a 'private gypsy site for one family' was granted via appeal decisions dated 30 October 2007 subject to several conditions (the '2007 appeals').²
6. Currently there is a static caravan, or chalet, within the appeal site. There were three touring caravans present at the time of my site visit, albeit I was told that two of which were only intended to be on site for a short time on account of recent family circumstances. There is also a stable block and a substantial 'day room' present. An adjacent fenced paddock owned by the appellant is shown separately on plan NDS/17/BSL1. Whilst I note the observations made by the Parish Council regarding the history to the site, with the exception of two touring caravans,³ there is nothing to indicate that development undertaken on site is unlawful.
7. The 2007 appeals were determined at a time when evidence in support of the DPD was emerging. Traveller needs were unquantified. The Council has undertaken work in that regard in 2008, 2014 and 2016. The 2014 study indicated a need for 'at least 14' pitches between 2016 and 2031. The monitoring target for DP14 is that there is no unmet need traveller within the District, an objective aligned with the aims of PPTS2015. The 2014 study pointed to increased need. However the 2008 North Yorkshire sub-regional Gypsy and Traveller Accommodation Assessment was updated in 2016 (the 'UTGAA'). That identified the need for only a single pitch between 2016-2031.
8. The significant decline in forecast traveller needs responds to the change in the planning definition of travellers between Planning policy for traveller sites published in 2012 ('PPTS2012') and PPTS2015. In the latter 'travellers' no longer encompasses those who have ceased to travel permanently, as opposed to temporarily. The UGTAA was informed by an audit of authorised pitches in the District, and a questionnaire which sought to establish whether or not individuals continued to fall within the planning definition of travellers. The appeal site is counted in the UGTAA as an authorised pitch, part of existing supply. Mr Foster explained that he was not aware of that questionnaire.
9. Of 30 returns to the questionnaire, only six households continued to meet the PPTS2015 definition of travellers. The UGTAA further indicates there are 'existing vacant pitches' on public sites within the District, capable of meeting the requirement for a single pitch predicted to arise from those six households. However there is little evidence before me in that respect. I heard how several publicly-administered pitches had recently become unavailable for a time owing to vandalism. There is also evidently some demand for private sites, as

² Ref APP/G2713/A/07/2044713 and APP/G2713/C/07/2045203, notwithstanding that the terminology used in ODPM Circular 01/2006, applicable at that time, was 'gypsies and travellers'.

³ Given the requirements of condition 2) b) attached to the 2007 appeals.

evidenced by applications in the surrounding area, and public provision may not meet the requirements of all travellers.

10. However the UGTAA acknowledges that responses were not received from 25 households who previously fell within the planning definition of travellers. It therefore indicates that the overall level of future need could rise by five further pitches, albeit that is an estimate. Three nearby appeals have been brought to my attention by the Council in this context, at Oak Wood Farm in 2019, at Ranch House in 2018, and at Rosie's Ranch in 2017.⁴ The Oak Wood Farm appeal is not directly comparable, being for an amenity building at an existing authorised traveller site. The other two are in themselves indicative of demand for private sites.
11. The Inspector who determined the appeal at Rosie's Ranch identified the limited representativeness of the UGTAA as set out above. There was also evidence before him that the study potentially under-represents the prevalence of unauthorised sites. He reasoned, on the available evidence that 'there is potentially an underestimation of the level of [traveller] need' by consequence. The Inspector who determined the appeal at Ranch House arrived at a similar conclusion. She also noted that use of a similar questionnaire in other areas had returned highly variable results, and in some instances significantly higher proportions of those who continued to meet the current planning definition of travellers compared to in Hambleton. The Council's evidence in relation to travellers has yet to be refined in light of those points.
12. Moreover those who would no longer fall within the PPTS2015 definition of traveller would remain part of the District's population, and therefore a component of future projections. I understand that the Council has yet to take account of that consequence in terms of updating their Strategic Housing Market Assessment (January 2016, 'SHMA') supporting the emerging Local Plan.⁵ At the hearing the Council made the case that they are able to demonstrate well in excess of a five year supply of deliverable housing sites, with regard to paragraphs 67 and 73 of the National Planning Policy Framework ('NPPF'). In that regard the Council ventured a figure of 8.9 years' worth of supply relative to a five year land requirement of 336 dwellings annually arrived at via the SHMA. In that context the 'spill over' implications of individuals who would no longer fall within the planning definition of traveller, but would still reside in the District, is likely to be quite limited.
13. There is therefore a relatively more pressing need to identify pitches for travellers than sites for housing, at least in the short term. Whilst it is not possible to precisely establish the former, on the evidence before me provision will need to be found for six or more traveller pitches in the future. Allowing the appeal would reduce existing pitch provision, thereby resulting in greater pressure for further provision elsewhere. The proposal is for the removal of the residential caravan, and there is no indication that future occupants would be travellers (a matter to which I will return). The proposal would therefore effectively reduce supply of authorised pitches in conflict with the approach in CS policy CP8, DPD policy DP14 and the aims of PPTS2015. I now turn to

⁴ Ref APP/G2713/W/18/3202014, APP/G2713/C/16/3164637, APP/G2713/W/17/3183496.

⁵ Noting the provisions of section 124 of the Housing and Planning Act 2016, which inserts a duty to consider the needs of people residing on sites on which caravans can be stationed into section 8 'Periodical review of housing needs' of the Housing Act 1985 as amended.

consider other material considerations and other matters, in order to reach a balanced view on the acceptability of the proposal.

Other material considerations

The appellant's circumstances

14. The 2007 appeals were taken in the context that, at that point in time, the appellant and his family fell within the planning definition of travellers. However he states, in correspondence dated 11 July 2018, that he and his family have settled permanently and have no intention of vacating the site in the foreseeable future. I understand that, for his economically active life until 2007, Mr Foster travelled nationally trading plant and machinery. That allowed for the purchase and sale of equipment wherever opportunities arose and the market was most advantageous. During that time, I am told, his work did not fall predominantly in any particular location. The appellant explained during the hearing how he travelled with his family for many years before 2007, including three children (then all of school age). There was therefore a clear economic rationale for the family's travelling, representing a nomadic habit of life.
15. I have noted above how the 2007 appeals allowed for the use of the site as a 'private gypsy site for one family'. However the appellant is not of Romani Gypsy or Irish Traveller heritage. His travelling lifestyle was solely on the basis of pursuing economic opportunity, rather than to participate in Gypsy or Traveller events or traditions. I also understand that Mr Foster and his family have lived at the appeal site continuously since 2007, aside from taking occasional holidays for leisure as anyone may from time-to-time.
16. Mr Foster remains engaged in the same line of work. However that has become increasingly localised, and, I am told, is now almost exclusively related to selling items at Selby and York markets (around 50 and 40 miles away respectively). The appellant now effectively commutes to those locations from the appeal site as necessary, distances which are not incomparable with that taken by many on a day-to-day basis related to employment. I understand that he still ventures further afield to purchase equipment, albeit that he estimates that has necessitated only five overnight stays during the last year. That is similarly comparable with many jobs which entail longer distance travel on occasion, including that of a planning Inspector.
17. During the hearing the Council observed that whether an individual falls within the planning definition of traveller may change over time, and that such status may be preserved by relatively limited travelling. That is true. Nevertheless my reasoning above sets out how Mr Foster and his family have settled at the appeal site for some twelve years. His working practices and the need to travel are comparable with many other types of employment. The point of exchange, i.e. where goods are traded, and a livelihood earned, is relatively fixed. On the evidence before me, I am satisfied that Mr Foster and his family have ceased travelling permanently.
18. Arguably the effect of allowing the appeal would be both to reduce pitch provision in the District by one and equally to reduce future traveller need by a single household, thereby resulting in a neutral effect. However as set out above there is a relatively more pressing need for additional traveller sites to be found in the District compared with general housing supply. The loss of an

authorised traveller pitch in that context would be significant. In itself that the appellant and his family have ceased travelling permanently is therefore insufficient to justify allowing the appeal.

Changing circumstances since the 2007 appeals

19. However, the 2007 appeals granted permission subject to several conditions, No 1 of which limited occupation to the appellant and his dependents, and No 2 specified that the site may not be occupied other than by gypsies. One condition does not take precedence over the other. As a result of the revised definition of travellers, those conditions conflict with one another. Under the first condition the appellant, his wife, or any of their children who resided on site in 2007 may continue to occupy the appeal site until death. Nature willing, it may therefore be that the appeal site could be occupied for an individual for many years, potentially of a term consistent with that of many residential leaseholds. Therefore, within the terms of condition No 1, an individual may effectively settle permanently in this location.
20. However, were that to occur, it would not now be possible to comply with the provisions of condition No 2. The appellant's status in planning terms would have changed by virtue of life circumstances. It could be argued under that scenario that the appellant would be compelled to vacate the site. However that would invalidate the rationale for condition No 1; imposed, in part, by the Inspector in 2007 on personal grounds as 'if the appellants had to leave the appeal site, they would have nowhere else to go'.⁶ Moreover circumstances at the appeal site and in respect of its surroundings have also changed significantly since then. In 2009 the Council granted permission for the construction of a utility building on site, the day room referred to above.⁷ In 2016 the Council granted retrospective permission for alterations to the design of that utility building and its use as ancillary accommodation.⁸
21. The day room is, however, comparable in scale and design to a dwelling (as shown on plan NDS/17/BE2). It has a footprint of approximately 90 square metres and appears as a storey-and-a half in height (on account of a high level window within a gabled elevation and rooflight). The building is of substantial construction, being faced in natural stone with concrete roof tiles. Consequently the day room is neither of a scale nor design that is typical of traveller sites.
22. Condition No 5 of the 2007 appeals requires that when the use of the site were to lapse, 'the land shall be restored to the condition in which it was prior to the use commencing'. That requirement is not replicated in conditions attached to the 2009 or 2016 permissions. It therefore appears that, even were the appellant and his family to vacate the site, the day room could remain in place. Alternatively, in order to comply with condition No 5 to the 2007 appeals, the appellant would need to demolish the day room, which in this particular instance would appear unreasonable given the nature of that building.⁹
23. Moreover the original geographic distinction between policies CP4 and DP14 is no longer as relevant in this particular location. Allocation SH3 for 20 homes to

⁶ Notwithstanding that the terminology used in ODPM Circular 01/2006 was 'gypsies and travellers'.

⁷ Ref 09/02458/FUL.

⁸ Ref 15/02375/MRC.

⁹ With regard to Planning Practice Guidance Reference ID: 21a-014-20140306.

the south of No 122 in the Council's Allocations Development Plan Document, adopted on 21 December 2010, effectively brought the built form of the village closer to the appeal site than the established settlement boundary. In April 2018 the Council granted permission for the construction of 26 dwellings on land immediately to the north of the appeal site beyond Water Beck, encompassing allocation SH3.¹⁰ That permission has now been partially built out. Despite trees and vegetation along the bank of the watercourse and changing ground levels, I saw that there is nonetheless some intervisibility between those properties and the appeal site. On the ground Great Broughton therefore now appears to extend along the B1257 as far as Water Beck both to the east and west, extending to the northern edge of the site.

24. Furthermore, the Council has recently taken a more flexible approach to the application of policy CP4. That is as articulated in Interim Policy Guidance endorsed by the Council in April 2015 ('IPG'). I understand that the IPG responded to the emphasis in paragraph 55 of the National Planning Policy Framework published in March 2012 to promoting sustainable development in rural areas, which has since filtered into paragraph 78 of the current NPPF. There are also dwellings nearby on all sides of the appeal site aside from towards the B1257. In that context, paragraph 5.9 of the officer report associated with application Ref 17/02137/FUL explains that the proposal for a dwelling at the site would in conformity with the approach in the IPG.

Other matters

25. The proposal seeks permission for the replacement of the existing residential caravan with a permanent dwelling. The static caravan currently falls within flood zone three, i.e. land with a high probability of flooding. Irrespective of how flooding was considered in the 2007 appeals, and that the existing caravan is set on a slightly elevated concrete plinth, dwellinghouses are of lesser vulnerability to flooding than residential caravans.¹¹ The proposal would consequently be likely to reduce the vulnerability of development to flooding.
26. Relative to the existing building, the proposed extension is modest. Its form, detailing and external materials would tie in well with the existing design, and also reflect the aesthetic of nearby properties. On account of the distance between the B1257 and the appeal site, alongside intervening trees and vegetation, the extension proposed would be barely visible from outside the site in that direction. Aside from visibility beyond Water Beck to the north, I was unable to identify any public rights of way or longer-range vantage points from which the development proposed would be readily apparent. The proposal would therefore integrate appropriately with its surroundings. It is sufficiently separated from Grade II Broughton Grange, including by virtue of the intervening paddock, and also planting and fencing, such that its setting and historic integrity would be preserved.
27. I have taken account of the concerns of a nearby resident regarding noise at the appeal site, and the implications of the proposal for the free flow of traffic along the B1257. There is, however, no evidence before me of any formal noise complaints, and that issue is not raised by immediate neighbours. In any event a dwelling may have improved acoustic attenuation properties than a caravan,

¹⁰ Ref 17/00941/FUL.

¹¹ Planning Practice Guidance Reference ID: 7-066-20140306.

and remedy exists through other provisions to address noise amounting to a statutory nuisance. There is much open space within the appeal site, sufficient for parking and manoeuvring of several vehicles, and the proposal would not directly add to the level vehicular use arising here (by representing a different form, rather than greater intensity, of accommodation).

Planning balance and conclusion

28. I have reasoned above that the proposal would strictly result in a reduced supply of authorised traveller sites in the District, and that there is proportionately a greater need for such as opposed to other housing in the short term. However neither the appellant, nor his immediate family, fall within the planning definition of traveller on account of having settled permanently in this location. Given the change in the definition of travellers between PPTS2012 and 2015 a conflict has arisen between the terms of conditions Nos 1 and 2 of the 2007 appeals; the appellant cannot comply with both simultaneously.
29. Moreover circumstances have changed in the Council's application of policy CP4 via the IPG, at the appeal site, and in respect of its surroundings, such that a permanent dwelling here would not be unacceptable. Were the proposal to be implemented, as no intended occupants would fall within the planning definition of travellers for the foreseeable future, and given the specific circumstances that informed the 2007 appeals, it is highly unlikely that an unrestricted traveller site would either be proposed, or be appropriate, here in the future.
30. Moreover the removal of the static caravan would, as reasoned above, otherwise entail no undue effects. Taken together, the unique set of circumstances in this instance carries significant weight in favour of the proposal. Consequently other material considerations are sufficient to justify allowing the appeal. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and with regard to all other relevant material considerations, I therefore conclude that the appeal should be allowed subject to the conditions below.

Conditions

31. In addition to requiring commencement in line with section 91 of the Town and Country Planning Act 1990 as amended, I have imposed conditions requiring compliance with the supporting plans, that matching materials are to be used, and that the existing static caravan is to be permanently removed from the site within three months of the date on which the development proposed is first occupied. Those conditions are necessary in order to ensure that the scheme is implemented as assessed above, integrates appropriately with the character and appearance of the area in line with DPD policy DP32 and NPPF paragraph 127(c), and also that the vulnerability of development to flooding is reduced. The appellant agreed at the hearing that a three month period for the removal of the existing static caravan was reasonable. In imposing conditions I have had regard to the relevant provisions of the NPPF, of the Planning Practice Guidance and of statute. In that context I have amended the wording of certain conditions proposed by the Council without altering their aims.

Thomas Bristow
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: NDS/17/BSL1, NDS/17/BS2, NDS/17/BE3 and NDS/17/BE4.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Within a period of three months from the date on which the development hereby permitted is first occupied, the existing static caravan shown on plan NDS/17/BS2 shall have been completely and permanently removed from the site.

APPEARANCES

FOR THE APPELLANTS:

Billy Foster
Margaret Foster
John Pollitt

Appellant
Relative of the appellant
Northallerton Draughting Services

FOR THE LOCAL PLANNING AUTHORITY:

Peter Jones

Hambleton District Council

HEARING DOCUMENT

- 1) ArcGIS flood zone map of the appeal site and surroundings drawn from Environment Agency data.