



Appeal Decision

Site Visit made on 13 April 2021

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2021

Appeal Ref: APP/G2713/W/20/3256517

The Workshop, Stokesley Road, Brompton, Northallerton DL6 2TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Ms Caroline Bird against the decision of Hambleton District Council.
- The application Ref 20/00635/FUL, dated 14 March 2020, was approved on 1 June 2020 and planning permission was granted subject to conditions.
- The development permitted is: To allow a second static caravan and an additional touring caravan to be sited on part of the land approved as a private gypsy site.
- The conditions in dispute are No 1 which states that: *The land shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (Department for Communities and Local Government August 2015) or any replacement guidance; and,*
No 7 which states that: *The approved static caravan shown on Site Plan as Proposed dated the 14 January 2020 shall not be occupied by any persons other than Mr Roy Bird, with the proviso that, within 3 months of the date on which they cease (for whatever reason) to permanently live on the site. If the caravan ceases to be used by Mr Roy Bird for a period in excess of three months the static caravan hereby approved (or any caravan replacing that) shall be removed from the site and the site returned to its condition prior to the stationing of the caravan.*
- The reason given for No1 is: *To ensure that the site is occupied by people meeting the definition as a gypsy and traveller as set out in the PPTS; and for No 7: To ensure that no future occupiers of the site occupy the mobile home without the Council assessing the needs of any future occupiers on the site in accordance with Policy DP14 and the overarching principles of the PPTS.*

Decision

1. The appeal is allowed and planning permission Ref 20/00635/FUL to allow a second static caravan and an additional touring caravan to be sited on part of the land approved as a private gypsy site at The Workshop Stokesley Road, Brompton, Northallerton DL6 2TY granted on 1 June 2020 by Hambleton District Council, is granted subject to the deletion of conditions 1 and 7 and their substitution with the following conditions:
 - 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of planning Policy for Traveller Sites (Department for Communities and Local Government August 2015) or any replacement guidance, with the exception of any persons named in other conditions relating to this permission.
 - 7) The approved static caravan labelled 'site' shown on 'Site Plan as Proposed dated 14 March 2020', shall not be occupied by any persons other than Mr Roy Bird.

- 9) When the approved static caravan identified in condition 7 ceases to be occupied by the persons named in condition 7, the use hereby permitted shall cease. All caravans, structures, materials and equipment brought onto or erected on the land, and/or works undertaken to it connection with the use, shall be removed and the land shall be restored to its condition before the development took place, within a period of three months from when that use ceased.

Applications for costs

2. An application for an award of costs has been made by the appellant. This is the subject of a separate decision.

Preliminary Matters

3. It is not disputed that the appellant and her husband fall within the definition of gypsies and travellers set out in the Glossary to Planning Policy for Traveller Sites¹ (PPTS) and I see no reason to reach a different conclusion.
4. The appellant's grandfather has ceased travelling for reasons of ill health and old age. The most recent edition of PPTS has removed reference to persons who have permanently ceased travelling from the definition. Nonetheless, the agency which carried out the Council's Accommodation Assessment² has confirmed that the appellant's grandfather should be included in any assessment of gypsy housing need. I see no reason to disagree and have proceeded on this basis.
5. Having reviewed the evidence I concluded that one of the main issues for the appeal included an assessment of whether the site was suitable for long term expansion. As there was very little evidence before me in this regard, I invited the main parties to submit further information to support their arguments.

Background and Main Issues

6. The Council has given conditional permission for one additional static and one additional tourer caravan on an established one pitch site, to enable an elderly relative to receive full-time care from family members. The Council concluded that the relative did not meet the definition of a gypsy and traveller but as he would be part of one household living on the site, on balance it was reasonable to give planning permission on the basis that occupancy was restricted to that individual. Once that occupancy ceased the static caravan was to be removed. A further condition was imposed limiting occupancy of the site to individuals meeting the definition of gypsies and travellers as set out in PPTS.
7. The appellant has lodged the appeal with regard to conditions 1 and 7 on the grounds that given the investment involved in the provision of an additional static and tourer caravan, the pitch should be available for other gypsy or family occupiers when its immediate need for familial care of the grandfather has expired.
8. There is some tension between these two conditions, and I am not satisfied that together they address the Council's stated intention to control longer term occupancy of the site. Nonetheless, I conclude that the main issues are:

¹ Department for Communities and Local Government, August 2015

² Paragraph 5.10 Officer's report

- Whether the site is suitable for expansion with regard to local policies and national guidance;
- Whether there is overriding need for the development, with regard to the Council's provision for gypsy and travellers, personal circumstances, Equality and Race Relations Legislation and the human rights balance; and,
- Whether the conditions are reasonable and necessary.

Reasons

Location

9. PPTS encourages sites to be well planned in order to positively increase the openness of the environment and notes that they should respect the scale of, and not dominate, the nearest settled community. Policy DP14 of the Local Plan (LP) sets out that pitches should be of appropriate size and be of a scale that takes into account the size and density of development in the locality.
10. The long narrow L-shaped appeal site abuts the side and rear boundary of Rivadoon, which is a bungalow on a narrower plot. It is separated from a further dwelling on the other side by a field, and otherwise is surrounded by open countryside. The existing static caravan is located towards the rear of Rivadoon's plot and is close to the side boundary. The site already has more small sheds than are noted on the plan, and the location of the existing tourer is not shown. The proposed site for the additional static caravan would be some 13 metres from Rivadoon's rear boundary. The proposed second tourer is not shown on the layout.
11. The siting of two permanent and unrestricted gypsy pitches on this site could lead to a significant increase in the number of people living on the site, and a significant uplift in activity and vehicle movements immediately adjacent to the rear and side boundaries of Rivadoon. This would be detrimental to the living conditions of occupiers of Rivadoon.
12. Moreover, whilst the existing site is well laid out with plenty of space for parking and amenity areas, as well as other smaller sheds and the bricks and mortar amenity block, the additional hardstanding would not accommodate much more than the two caravans. It is unclear where space would be found for additional amenity areas or parking associated with that second pitch. In this regard I conclude that permanent and mobile structures linked to the second pitch and its associated activity, would lead to an unacceptable degree of congestion on the site. This would also be detrimental to the site's openness and would be out of scale with the modest dwelling on the adjoining plot.
13. I appreciate that the site contains a long field to the rear. However, this appears to be agricultural land and I have to determine the appeal on the basis of the layout before me.
14. The appellant suggests a condition that limits occupancy to family members, and the evidence before me indicates that there is a cousin overseas who may wish to be accommodated on the site, as well as a recognition that the appellant's children would require accommodation in the longer term. However, although personal occupancy conditions could be imposed which named particular individuals, even if the occupiers of the second pitch were family members, that would not necessarily limit the activity, or comings and

goings on the site. Nor would it alter my reasoning with regard to the degree of congestion and loss of openness.

15. As such, I conclude that given the proximity of Rivadoon, the site is not suitable for expansion. A second pitch would be detrimental to the living conditions of occupiers of Rivadoon contrary to LP Policy DP14 which sets criteria for the siting of gypsy pitches, including the effect on residential amenity and site planning. Expansion would also lead to domination of the settled community and actually reduce openness, contrary to the guidance in PPTS. It would also fail to promote peaceful and integrated co-existence between the site and the local community, also contrary to the guidance in PPTS.
16. Furthermore, although a previous Inspector did not find harm in relation to residential amenity in a costs award³, that appeal was concerned with one additional static caravan only. As such, the appeals are not directly comparable.

Pitch provision and overriding need

17. I now turn to whether there is an overriding need for expansion on this site, and whether this would outweigh the harm identified in relation to residential amenity and spatial planning.
18. The latest pitch deliverability assessment⁴ concludes that 44 of the 47 pitches required for the period 2020 – 2024 can be met through the enlargement of existing sites. The appeal site is described as having 2 pitches on the basis of the current conditional permission. It also notes that there will be a need for one additional pitch on this site in the period 2020 – 2024, although it is unclear whether this takes into account the inherent temporary nature of the latest permission.
19. Nonetheless, it is clear that there is an immediate district-wide shortfall in gypsy pitch provision. This is confirmed by correspondence with the examining Inspectors for the emerging Local Plan which concludes that with regard to provision for gypsy and travellers the emerging Local Plan is unsound⁵. Moreover, the assessment is very recent and where constraints have been identified, these are yet to be addressed or mitigated. Permissions for expansion, even if granted on all sites or in the projected numbers, are likely to take a number of years. Even if all the identified sites are able to expand, the additional pitches are not immediately deliverable.
20. The assessment also outlines friction between the occupiers of Rivadoon and the site. Although this is disputed by the site owner, the assessment concludes that this is a constraint to the further expansion of this site. Whether there is a dispute or not, its mention in this assessment reinforces my concern in relation to the site's proximity to Rivadoon.
21. The appellant has four teenage children, two of whom have moved out of mainstream education into specialist services. Another teenager assists with the management of these teenagers. Although there is no supporting evidence before me in this regard, I see no reason not to give it some weight. As the

³ Costs Decision APP/G2713/W/19/3236564

⁴ February 2021

⁵ 22 March 2021

children grow up they will expect some independence and there will be additional spatial requirements. Moreover, given the additional care needs of two children it would be appropriate and within the ethos of gypsy life for care to be undertaken by family members. I acknowledge that additional accommodation for resident dependants would assist this situation.

22. The existing permission already allows another touring caravan on the site and it seems unlikely that this would be needed by the named grandparent who would occupy the second static caravan. Moreover, the previous application, which focussed on the care of two grandparents, did not include the tourer. As such, I conclude that the existing permission already provides more accommodation than is immediately required for the familial care of the grandparent, albeit that this is short-term.
23. The family appears to be a settled and well-established unit. Although in the fullness of time some or all of the children may require pitches of their own, there are no arguments advanced in relation to homelessness if the appeal is dismissed. I acknowledge that there is a general need within the district for the provision of more gypsy pitches but with regard to this particular family, the current permission addresses the immediate and overriding need for the care of a relative.

Planning balance

24. As set out above, I am satisfied that the immediate overriding need is addressed by this permission and the weight I attribute to the familial care of an aged parent outweighs my concern in relation to Rivadoon. However, I am not satisfied that the clearly identified district-wide shortfall in pitch provision justifies the permanent provision of an additional pitch, even if occupancy was restricted to adult members of the appellant's family through personal occupancy conditions, for the reasons set out above.
25. Although I give some weight to the additional space required to manage teenagers with learning difficulties, this does not alter my reasoning that this site is not suitable for long term expansion as shown on the layout. Moreover, as noted above, the existing permission appears to provide more accommodation than is immediately required to accommodate one additional resident.
26. Article 8 of the ECHR⁶ is concerned with the right to respect for private and family life and for the home. There is an expectation that signatories to the ECHR will positively facilitate the gypsy way of life, which is based on familial ties and support. The Council has given weight to the personal circumstances set out in the application and I see no reason to disagree with the Council in this regard. However, the rights set out in Article 8 are qualified rights, and have to be balanced against the rights of the settled community.
27. As such a personal occupancy condition is reasonable and necessary to make the development acceptable in planning terms. Whether the appellant chooses to implement the permission or not, is outside my remit.

⁶ European Convention on Human Rights

Conditions 1 and 7

28. Condition 1 is a general occupancy condition and in principle I see no reason why a site specifically given permission to provide accommodation for the special needs of gypsies and travellers should not have this condition. However, condition 1 requires amendment to include reference to the personal occupancy condition.
29. Condition 7 is not particularly well-drafted. The reason for its imposition is to exercise control over occupation of the second pitch once the immediate need ceases. The Council's appeal statement notes that condition 7 is required to ensure that it can ensure future occupiers of the second pitch meet the PPTS definition. However, this is covered by condition 1. Condition 7 also refers to a site plan dated 14 January 2020 but the drawing in the evidence is dated 14 March 2020. I have amended condition 7 in line with best practice.
30. As personal occupancy conditions are necessarily time limited I have also imposed a condition requiring the second pitch to be restored to its original condition once it is no longer needed for familial care or for resident dependants.

Other matters

31. In the costs decision I have found that the Council has not justified the removal of the second pitch once no longer required for immediate care needs. However, this does not alter my reasoning with regard to this appeal.
32. That the officer's original recommended condition with regard to occupancy was altered by Members, is not determinative. Members are entitled to review such issues.

Conclusion

33. For the reasons given and taking into account all matters raised, including my duties in relation to personal circumstances, Equalities Legislation and the human rights balance, I conclude that conditions 1 and 7 should be deleted and replaced by Conditions 1, 7 and 9. The appeal is allowed on that basis.

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INSPECTOR