



Appeal Decision

Hearing held on 16 January 2025

Site visit made on 16 January 2025

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Appeal Ref: APP/E2530/W/24/3353929

Meadow View, Marshall Way, Foston NG32 2LQ

- 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 Ishmael Steele against the decision of South Kesteven District Council.
 - The application Ref is S23/2004.
 - The development proposed is the change of use from agricultural/equestrian to residential site for 10 static caravans and parking for 1 tourer per static, domestic and light commercial vehicle parking including utility blocks per static and stable blocks on paddocks, amenity and recreation area for residents.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural/equestrian to residential site for 10 static caravans and parking for 1 tourer per static, domestic and light commercial vehicle parking including utility blocks per static and stable blocks on paddocks, amenity and recreation area for residents at Meadow View, Foston NG32 2LQ in accordance with the terms of the application, Ref S23/2004, subject to the following conditions.
 - 1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos 1. Proposed Site Location Plan (received 27 October 2023) and Proposed Floor Plans and Elevations – Dayroom / Bathroom (Ref: MW/NB/02).
 - 3) There shall be no more than 7 pitches on the site at any time.
 - 4) No more than 20 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 10 shall be static caravans) shall be stationed on the site at any time.

- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 90 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
- i) Within 3 months of the date of this decision a scheme for: the layout of the site, in general accordance with plan 'Proposed Site Layout (Ref: MW/NB/01/RevA)'; the materials to be used in the external elevations of the dayrooms; acoustic mitigation measures in accordance with 'Environmental Sound Survey and Noise Impact Assessment' by Independent Acoustic Consultant Tim Green, dated 23rd September 2024; Surface Water drainage in accordance with 'Flood Risk Assessment and Surface Drainage Strategy for Planning' by UNDA dated October 2023; a Landscape Management Plan; the means of foul water drainage; and, external lighting; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Applications for costs

2. The appellant has made an application for costs and this application is the subject of a separate decision.

Preliminary Matters and Main Issues

3. At the time of my site visit the site was occupied, though I note that the layout of the pitches and caravans does not accord with the submitted plans. I have amended the description of development to remove reference to "all residents to be from one family group and to be permanently based on site (no transient gypsies/travellers on site)" because this is not development.
4. The main issues below are based on the reasons for refusal detailed in the council's decision notice.
- I. Whether or not the appeal site would provide acceptable living conditions for future residents with particular regards to noise from the nearby A1 road.

- II. Whether or not the appeal scheme makes appropriate provision for healthcare contributions.

Reasons

Living Conditions

5. Policy H5 of the Local Plan supports proposals for gypsy and traveller pitches subject to a number of criteria, including that the site provide an acceptable living environment.
6. The appeal site is located adjacent to the A1 'Foston By-Pass' a busy road that dominates the noise environment at the appeal site.
7. The Noise Impact Assessment 2002 (NIA '22) that accompanied the planning application found that the noise from the road traffic would, in respect of external amenity spaces, exceed the levels sought by BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings. It therefore follows that road traffic noise would harm the living conditions of the residents.
8. However, a new Noise Impact Assessment 2024 (NIA '24), submitted in support of the appeal and not before the council at the time it made its decision, identifies that subject of appropriate mitigation, the effect of noise generated from traffic on the road would be within the upper noise level identified by BS8233:2014.
9. The council contend that the surveys, in both instances, were carried out in the summer holidays and at a time when traffic levels were still below pre Covid-19 pandemic levels.
10. In explanation of the different conclusions of the Noise Impact Assessments the appellant identified specific deficiencies in NIA '22, deficiencies also identified by Foston Parish Council, in particular those relating to the positioning of the measuring point, measurement durations, the effect of the boundary fence and various other matters.
11. On the basis of the evidence before me, I am satisfied that the NIA '24 represents a robust assessment of the noise environment at the appeal site. I have no substantive technical evidence disputing the conclusions of this assessment before me that would lead me to conclude otherwise.
12. Furthermore, the appellant presented calculations to assess whether the surveys being carried out during the summer holidays and with lower traffic levels made a material difference to the conclusions of the NIA and stated that they did not. I have no substantive evidence before me that would lead me to conclude otherwise.
13. The NIA '24 finds that unmitigated, the noise levels experienced by residents on the site would be too high, but with the fence and bund mitigation referred to, the resulting noise levels would be below the upper guideline limit detailed in BS233:2014. I am satisfied that the mitigation measures could be secured by an appropriately worded condition.
14. To conclude this main issue, while the appeal site is clearly affected by noise from traffic on the adjacent A1 Road, I am satisfied that it has been demonstrated that with appropriate mitigation measures, the appeal site can provide acceptable living conditions for future residents, with particular regards

to noise. As such, the appeal scheme is not contrary to policy H5 of the Local Plan.

Health Care contribution

15. The appellant has entered into a planning obligation to secure appropriate contributions in accordance with the provisions of Policies ID1 and H5(e) of the LP.
16. The council details that the financial contribution, being £13,200 requested by NHS Lincolnshire Integrated Care Board, would be used to expand the capacity at the Long Bennington Medical Centre and/or the Welby Practice. There is no substantive evidence before me that would lead me to conclude other than this is an appropriate level of contribution.
17. On this basis, there is no dispute between the parties that the financial contribution secured through the S106 obligation means that the appeal scheme makes appropriate provision for healthcare provision in accordance with Policies ID1 and H5(e) of the Local Plan.

Other Matters

Location

18. The appeal site is located in a countryside location near to but outside of the village of Foston. Policy SP5 of the Local Plan refers to a number of acceptable developments in the open countryside, the appeal scheme is not identified as one of the forms of development that is considered to be acceptable in the countryside. As such, the appeal scheme maybe considered to be contrary to the provisions of Policy SP5.
19. However as discussed at the hearing it is not at dispute between the parties that the council cannot demonstrate a 5-year supply of sites for gypsy and travellers. As a consequence of the absence of a 5-year supply of sites for gypsy and travellers, and with particular reference to the provisions of Planning Policy for Traveller Sites paragraph 28 and paragraph 11(d) of the National Planning Policy Framework (the Framework), I am satisfied that the location of the appeal scheme is acceptable. I note that there is no dispute between the parties in this regard and that the countryside location of the site was not a reason for refusal detailed on the decision notice.

Flood Risk

20. In representations and at the hearing, local residents identified that the local area includes land at risk of flooding, including surface water flooding. The appeal scheme is supported by a Flood Risk Assessment that makes a number of recommendations to mitigate flood risk and to ensure that the flood risk is not increased elsewhere as a result of the appeal scheme. I note that the Lead Local Flood Authority has not objected to the appeal scheme, and I am satisfied that the recommendations of the submitted Flood Risk Assessment can be the subject of an appropriately worded condition, this satisfactorily resolves this material consideration.

Neighbourhood plan

21. Local residents have referred to the Foston Neighbourhood Development Plan (NP). The Council has not referred to policies of the NP in the decision notice,

indeed the policies referred to by residents (Policy FNP09 and FNP11) refer to new housing development within the village and infill sites respectively. These policies are not applicable to the appeal scheme, being a Gypsy and Traveller site detached from the village envelope.

Highways

22. The appeal site is accessed at a single point from Marshall Way. At the hearing residents explained that this road can be busy if traffic diverts from the A1 and is otherwise the main route from Foston to the services and facilities of Long Bennington. Lincolnshire County Council, as Highway Authority, did not object to the planning application. At the site visit I saw that the site is accessed on a bend in the road but the Highway Authority confirms that the access meets the guidelines as set out in Manual for Streets and I do not have any substantive evidence before me that would lead me to conclude that the appeal scheme has an unacceptable impact on highway safety.

Character and appearance

23. The appeal scheme is of some size and scale in itself, and in the context of the countryside location. The works already undertaken on the site have introduced considerable development into an otherwise undeveloped area, detached from the built form of a settlement.
24. Nonetheless, I saw at the site visit that the existing boundary treatment significantly screens the appeal site, both from the A1 and from Marshall Way such that I am satisfied that the appeal scheme does not result in unacceptable harm to the character and appearance of the area.

Conditions

25. I have had regard to the planning conditions that have been suggested by the council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents.
26. I find it necessary to limit occupation to gypsy travellers, given the policy context for such development at this location. In order to define the permission, I have included conditions detailing the approved plans, to control the number of pitches and the number of caravans to be accommodated on site.
27. I have intentionally not included the site layout plan within the approved plans condition because, following discussions at the hearing, it is clear that the submitted plan does not reflect the intended development. I have imposed a condition requiring the submission and approval, and subsequent implementation, of a Site Development Scheme to control matters concerning the site layout, external materials of outbuildings, acoustic mitigation, surface water drainage landscape management, foul water drainage and external lighting. Development has already commenced on site and as such I have structured the condition requiring the submission of the details within 3 months of the date of the decision and the removal of the development if this condition is not complied with.

Conclusion

28. For the reasons given above the appeal should be allowed.

Mr M Brooker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Green	Planning Agent
Mr Tim Green	Noise Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Adam Murrey	Planning Officer
Venezia Ross-Gilmore	Planning Officer
Councillor Penny Milnes	South Kesteven District Council

INTERESTED PARTIES:

Councillor Paul Wood	South Kesteven District Council
Mr Tracey Gardner	Foston Parish Council
Mrs Christina Lees	Neighbourhood Plan Steering Group