



Appeal Decision

Hearing held on 2 July 2025

Site visit made on 2 July 2025

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2025

Appeal Ref: APP/F4410/W/24/3348523

Land adjacent to Stainforth Allotments, Old Field Lane, Stainforth, South Yorkshire DN7 5PE

- 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 Lawrence Cunningham against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref is 23/02173/COU.
 - The development proposed is described as the change of use of agricultural land to a caravan site, to provide 6 plots for residential accommodation for Gypsy/Traveller Families.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Prior to the hearing, the council submitted an application for costs and the appellant responded in writing. This application is subject of a separate decision.

Preliminary Matters

3. I saw at the site visit that some elements of the appeal scheme have already been carried out and the appeal site is occupied by the appellant and wider family group.
4. The retrospective nature of the proposals was reflected in the description of development referred to by the parties. Nonetheless I have removed reference to “part-retrospective” reference to an earlier planning application because it is not development and in the interests of clarity.
5. The reason for refusal detailed in the Decision Notice relating to the loss of agricultural land was withdrawn by the Council as a result of the agreement reached between the parties in the Statement of Common Ground.
6. At the hearing the appellant submitted a schedule of persons resident at the appeal site, including two families currently away travelling. The schedule identifies 17 adults, including children of those adults that are over the age of 18 but living with their parents and 24 children who are under the age of 18.

Main Issues

7. The main issues are:

- I. Whether or not the appeal site is a suitable location for the proposed development with regards to flooding.
- II. Where the appeal site is in an appropriate location for the appeal scheme with regards access to services.
- III. The effect of the appeal scheme on the character and appearance of the area.
- IV. Whether there are material considerations which exist that outweigh the conflicts with the development plan and any other identified harm resulting from the appeal proposal.

Reasons

Flood Risk

8. It is not at dispute between the parties that the appeal site is within Flood Zone 3 and the proposed use is highly vulnerable¹. In addition, I note that the Environment Agency maintains an objection to the appeal scheme despite the submission of additional evidence by the appellant.
9. With reference to national policy and guidance, the appeal scheme is a highly vulnerable form of development and, should not be permitted in Flood Zone 3. The exception test does not apply. On this principle alone, the appeal site is not a suitable location for the proposed development.
10. The appellant has prepared a Flood Risk Assessment² (FRA) and an addendum Flood Risk Assessment (aFRA), which identifies the sources of potential flooding and identifies a critical flood level for finished floor levels of “at or above 4.4mAOD” and that the appeal site at between approximately 5.80mAOD and 7.60mAOD is “significantly above” this level. I note that the site is also at risk of surface water flooding, the risk ranging from very low on the majority of the site to high on one part of the site.
11. I note that the FRA identifies an absence of historic flood events affecting the appeal site, indeed it identifies that the appeal site was not shown to have been affected by the 2007 floods in the Doncaster Strategic Flood Risk Assessment.
12. On the other hand, as discussed at the hearing, the two southern most plots are vulnerable to a breach of the flood defences of the nearby River Don that would lead to flooding on the site of some 200mm identified by the appellant as being a ‘risk to some’.
13. Furthermore, the appellant has not submitted details of a Sequential Test. The Planning Practice Guidance on Flood Risk places the onus on the appellant to identify “*whether there are any other ‘reasonably available’ sites within the area of search, that have not already been identified by the planning authority in site allocations or relevant housing and/or economic land availability assessments, such as sites currently available on the open market. The applicant may also need to check on the current status of relevant sites to determine if they can be considered ‘reasonably available’*”.

¹ Table 2 Planning Practice Guidance - Flood Risk and Coastal Change and Annex 3 of the Framework.

² Flood Risk Assessment for Planning, UNDA dated May 2023

14. The evidence presented by the appellant at the hearing falls considerably short of this requirement and on this basis, I am not satisfied that it has been demonstrated that there are no sequentially preferable sites in areas with a lower risk of flooding.
15. The appellant has made reference to an earlier appeal decision³, that granted permission for a site in flood zone 3. I do not have all of the details of the circumstances or policies that were relevant at the time that this appeal was determined, in particular I note that the EA did not object to that scheme, and it does not in itself persuade me as to the acceptability of the appeal scheme.
16. The proposed use is highly vulnerable to flooding, the site is in flood zone 3 and it has not been demonstrated that there are no preferable sites available elsewhere at a lower risk of flooding. As such, I find that it has not been demonstrated that the appeal site is a suitable location for the appeal scheme, with particular regards to flooding.
17. Thus, the appeal scheme is contrary to policy 57 of the Doncaster Local Plan (LP) that seeks to ensure that new development is not at risk of flooding and to the provisions of the national planning policy framework and planning practise guidance with regards flooding. I afford this harm and the conflict with the development plan, great weight.

Location

18. Policy 11 of the LP refers specifically to gypsy and traveller sites and, amongst other matters, requires that new sites “are close to or have good public access to key services including schools, medical facilities and shops”. No specific distances are identified in the Policy.
19. Furthermore, Policy 11 allows for new gypsy and traveller sites outside development limits, which the appeal site is, but only where there is an unmet need for gypsy and traveller sites. Gypsy Traveller Annual Needs Assessment dated 2022 (GTANA) showed that there was a surplus of provision. The findings of the assessment are disputed by the appellant, and this is a matter I will return to later.
20. The appeal site is located outside of and detached from the build-up area of the adjacent settlement, Stainforth which contains a range of services and facilities to meet residents’ day to day needs.
21. The site is linked to Stainforth by Old Field Lane, a single lane carriageway without separate pedestrian footway or street lighting. I saw at the site visit that the roadway is severely potholed and much of the surface is unmade. As such the route is unattractive to pedestrians seeking to access the day-to-day services and facilities of Stainforth and there is an absence of public transport alternatives. I find that this would likely lead to the majority of journeys being made by private motor car.
22. Nonetheless Stainforth is only a short distance from the appeal site and the specific wording of Policy 11 of the LP with regards key services only requires that proposed development is “close to or has good public access”.
23. While access to the appeal site by sustainable modes of transport is clearly suboptimal, I am none the less satisfied that for the purposes of policy 11 of the LP

³ Waggon's Way, Stainforth APP/F4410/W/21/3270719,

the appeal site is “close to” key services of the settlement and thus the appeal site is an appropriate location for the appeal scheme with regards access to service. As such in this regard, the appeal scheme is not contrary to policy 11 D) 4.

Character and appearance

24. The appeal site is located outside of the built-up area of Stainforth in a typical urban fringe type environment. The site is adjacent to an existing allotment site that includes a myriad of structures and, in this instance, the allotment site is enclosed by industrial style metal fencing.
25. I saw at the site visit that, partially visible from Old Field Lane, is another Gypsy Traveller site that is accessed from Doncaster Road to the north. Otherwise, outside of Stainforth, the area appears as predominantly flat countryside with agricultural fields enclosed by established hedges and trees. The council details that the appeal site was previously an undeveloped agricultural field, typical of the area.
26. The appeal scheme seeks consent for development, in the form of access roads, hardstanding, static and tourer caravans, subdividing fencing and general domestic paraphernalia into an otherwise open and undeveloped site, that would result in the encroachment of development into the countryside.
27. The submitted plans show soft landscaping, including the planting of tall beech hedges within the site and mixed native species hedges to enhance the existing hedges to the external boundaries of the site that, when fully established, will reduce the visual impact of the appeal scheme on the surrounding area. This landscaping could be controlled by a suitably worded condition.
28. For the reasons detailed above I find that there is, in the context of the nearby existing allotments, some limited harm to the character and appearance of the area as a result of the encroachment of the appeal scheme into the countryside. This is contrary to Policy 11 D) 6. of the LP and afford this harm moderate weight.

Other considerations

Supply of gypsy sites

29. The Planning Policy for Traveller Sites (PPTS) requires that the level of local provision and need should be considered when dealing with proposals for gypsy sites. The Council is required to demonstrate a 5-year supply of permanent traveller pitches.
30. The council has referred to the GTANA that represents a recent snapshot in time, utilising a methodology that has been independently assessed and I note has been accepted by previous Inspectors when determining relevant appeal decisions. The council's Statement of Case details⁴ that the GTANA identifies a need of -1 pitches over existing sites and a projected 5-year supply surplus of 71 pitches.
31. On the other hand, the appellant refers to, amongst other matters, that of the planned pitches identified in the GTANA, 13 are on Millfield Lane Caravan Site. that site is situated in Flood Zone 3 and is near to the appeal site. A planning application⁵ for these pitches was submitted in 2015 but remains undetermined.

⁴ Paragraph 5.11 Council's Statement of Case

⁵ 15/028802/FUL

32. The council stated at the hearing that should planning permission be sought, then permission would be granted. Moreover, I understand that these plots are unauthorised but likely immune from enforcement action and are occupied. Therefore, I consider that these plots contribute to the supply of pitches.
33. Furthermore, I note that the appellant does not dispute the council's evidence that there are vacancies on public sites. However, the appellant did suggest that long term vacancies indicates that the pitches are not available. Reasons suggested by the appellant included ownership, historic or cultural conflict or because some of the plots are 'reserved' for family members, other vacant pitches were referred to as not being suitable or otherwise available to the appellants. No substantive evidence has been submitted to support this assertion.
34. The appellant has referred to an earlier appeal decision⁶, suggesting that there is not a 5-year supply of pitches, but this decision predates the GTANA by some considerable time and I therefore consider it of little relevance.
35. As a result of my finding above, I am satisfied that the vacant pitches identified in the GTANA best represents the availability of alternative sites and that there is no significant identified need for sites. Consequently, in the absence of any unmet need for sites, this matter does not weight in favour of the appeal scheme.
36. On this basis the appeal scheme is contrary to the provisions of Policy 11 C) that allows for new gypsy and traveller sites outside development limits but only where there is an unmet need for gypsy and traveller sites, which has not been demonstrated in this instance.

Personal circumstances and accommodation need

37. There is no dispute between the parties that the extended family living on the appeal site meet the definition of Gypsies and Travellers contained in the PPTS and have a personal need for a settled base. This would allow residents to access health care and to meet the best interests of the 24 children resident on the site. In particular, this is of benefit to the 9 children that are identified by the appellant as attending schools in Stainforth and Harfield Woodhouse and to a lesser extent those other children that are identified as being 'homeschooled'.
38. A clear consequence of not granting planning permission for the appeal scheme is that the appellant and family group would not be able to continue to occupy the site, would be forced to seek residence elsewhere and may not be able to find a site that can accommodate the whole group. Though I note that the council's evidence identifies a number of vacancies on publicly owned sites and elsewhere and that some of the children do not attend the school closest to the appeal site.
39. The appellant noted that one resident suffered some mobility issues for which they were receiving medical treatment. However, no particular need for support beyond co-travelling and taking children to school is referred to by the appellant.
40. The appellant provided only very limited details of their last place of residence before moving onto the appeal site. It was confirmed at the hearing that the appellant had last resided at the Millfield Lane Caravan Site, amongst other unspecified sites, on a temporary basis. I understand that the appellant left Millfield Lane Caravan Site to travel and that these are rented pitches.

⁶ APP/F4410/C/15/3011312 dated 10 December 2015

41. Turning to the family group living together, at the hearing the appellants detailed that the group had “always been together over the winter”, and that the appeal scheme would allow the group to enjoy a permanent base living together.
42. Case law establishes that the best interests of the children are a primary consideration. A settled base is clearly in the best interests of the children, although the alternative of occupying one of the available sites referred to by the council in the GTANA is not an unreasonable situation. A settled permanent base would allow for the children to continue attending local schools and for the younger preschool aged children to be able to do the same when they are old enough. It would also allow all residents to access health care provision on a consistent basis. I give the personal circumstances of the extended family, and their accommodation needs significant weight, and I also ascribe the best interests of the children substantial weight.

The Overall Planning Balance

43. Weighing in favour of the appeal scheme is the benefit that a permanent base for the family group, in particular so that the school aged children can continue to attend school and pre-school aged children can in due course also school. A permanent base would also allow all residents to access health care and to live as a family group.
44. On the other hand, I have identified that there is a 5-year supply of sites, and it is not disputed that there are vacancies on council owned sites. Furthermore, I have identified that the use is highly vulnerable to flooding and is located in Flood Zone 3. Additionally, I have found some limited harm to the character and appearance of the area.
45. With regards the location of the appeal site being outside of the defined development limits I have found, in the absence of any unmet need, that the appeal scheme is contrary to the provisions of the development plan and this weighs against the appeal scheme and I afford this conflict significant weight.
46. The appeal site is close to key services and as such is in accordance with the development plan in this regard, this is of neutral weight in the planning balance.
47. I have considered the granting of a temporary planning permission. However, planning practice guidance indicates that circumstances where a temporary planning permission may be appropriate include where a trial run is necessary in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that. No such circumstances apply in this instance.
48. Moreover, I am concerned that a time limited permission would not be appropriate due to the levels of harm that would arise even on a temporary basis. Taking all these factors into account, I consider that a temporary permission is not justified in this instance.
49. I have also considered whether a personal permission (to restrict the occupation of the site to the extended family) would be appropriate. As set out in the guidance, planning permission usually runs with the land, and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of

who would benefit from the permission. I do not consider that there is sufficient justification for a personal permission in this instance.

50. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the extended family's individual rights for respect for private and family life (along with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.
51. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since the extended family are Gypsies, Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons (the extended family) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the Act.
52. To dismiss the appeal would potentially disrupt the education of the school age children. The negative impacts of dismissing the appeal arise since the extended family may be forced into the intermittent occupation of sites for a time and the whole family group may not be accommodated on a single site for a time. This would interfere with the best interests of the children and each member of the extended family's right for respect for private and family life and weighs in favour of the appeal.
53. However, I have found that the proposal is not a suitable location for the proposed development with particular regards to flooding, causes harm to the character and appearance to the area and that there is a 5-year supply of sites. I am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to prevent a highly vulnerable use at risk of flooding can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the appellant and their family are necessary and proportionate.
54. Bringing matters together, the other considerations in this case and the benefits of the proposal, even taking into account the extended family's Article 8 rights and the PSED considerations, do not clearly outweigh the totality of the harm identified and the conflict with the development plan as a whole.

Conclusion

55. For the reasons given above the appeal should be dismissed.

Mr M Brooker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

- : Philip Brown, Agent
- : Lawrence Cunningham, Appellant
- : Tom Farrow, Resident
- : Richard Stevenson, Resident
- : Tahseen Choudry, Brilliance Solicitors

FOR THE LOCAL PLANNING AUTHORITY:

- : Susie Grosse, Principal Planning Officer
- : Teresa Hubery, Senior Planning Officer
- : Sarah Smith, Senior Enforcement Officer
- : Andy Brown, Senior Policy & Insight Manager
- : Michael Webb, Senior Legal Officer
- : Philip Robson, Kings Chambers - Barrister

DOCUMENTS

- : List of persons residing on Land at Oldfield Lane, Stainforth