
Appeal Decision

Site visit made on 26 June 2025

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/Y2003/W/25/3364113

Land at Marsh Lane, Barnetby le Wold, North Lincolnshire, DN38 6DJ

- 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 Perry McEvoy against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/498.
 - The development proposed was originally described as the *change of use of land to a private gypsy and traveller caravan site comprising 1 pitch and associated development (including use of existing agricultural building for domestic garage and storage, retention of boundary fencing and retention of brick gate posts and raised planters)*.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a private gypsy and traveller caravan site comprising 1 pitch and associated development including use of existing agricultural building for domestic garage and storage at Land at Marsh Lane, Barnetby Le Wold, North Lincolnshire DN38 6DJ in accordance with the terms of the application, Ref PA/2023/498, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Perry McEvoy against North Lincolnshire Council. This application is the subject of a separate decision.

Preliminary Matter

3. The description of development in the banner heading above is taken from the application form. However, in agreement with the main parties I have amended the description of development in the formal decision as this is more precise and removes words which were not an act of development. However, the change of use and some works have already taken place, and I am therefore considering the appeal as retrospective.

Background and Main Issues

4. The Council's reason for refusal No.1 on the decision notice related to the development being within Flood Zone 2/3a due to the risk from fluvial flooding, and that it would constitute a highly vulnerable use. They considered it would be contrary to Policy DS16 of the North Lincolnshire Local Plan (LP) and Policy CS19 of the North Lincolnshire Core Strategy (CS).
5. However, following updated data and flood maps from the Environment Agency (EA) on 25 March 2025 the site now falls within Flood Zone 1, the lowest risk of flooding. The EA have withdrawn their objection on flood risk grounds and the

Council confirm they will not be offering any evidence on this matter. Therefore, this contention and reason for refusal No.1 falls away, and I have determined the appeal on this basis.

6. In consideration of the above the main issue is whether the development provides adequate provision for foul drainage, having regard to the drainage hierarchy.

Reasons

7. The appeal site comprises of a former grain store and building with crushed brick hardstanding, enclosed by steel palisade fencing. It is outside of the nearest settlement and therefore within the countryside. It sits adjacent to the sewage treatment works and is accessed via a single track along Marsh Lane. The land is noted to be designated as green infrastructure and adjacent to a designated local Geological Site (Quarry). Nevertheless, the development is accepted to be on previously developed land within the curtilage of an agricultural building.
8. The proposal is for 1 pitch with associated development, including the use of the existing agricultural building and portable office building as additional daytime living accommodation and domestic garage with storage. Additional landscaping for the site including boundary treatments have been put forward, considered as associated development.
9. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.
10. The National Planning Practice Guidance (PPG) sets out that applications for developments relying on anything other than connection to a public sewage treatment plant will need to be supported by sufficient information to understand the potential implications for the water environment. It requires that wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. Where it is not feasible (in terms of cost and/or practicality) a package sewage treatment plant can be considered, which requires it to be clearly set out what the means of operation and management are of it including responsibilities of the rules and/or permit.
11. The PPG states that septic tanks or package sewage treatment plants may only be considered if it can be clearly demonstrated that discharging into a public sewer is not feasible, a package sewage treatment plan or septic tank can be considered in accordance with Approved Document H of the Building Regulations 2010.
12. A flood risk assessment (FRA) was provided with the planning application and an additional FRA as part of the appeal which further incorporated foul water drainage¹. The Council maintain that the updated FRA does not confirm whether it is feasible or practicable to connect to a foul sewer to serve the development. The EA have responded on the appeal and objected on the lack of detailed evidence to connect to a public sewer.
13. At present on the site there is an existing septic tank where the foul drainage is discharged to, this is located to the side of the building. I saw the location is heavily congested with domestic paraphernalia. The appellant proposes through

¹ Flood Risk Assessment, Ref RLC/1255/FRA/01, Roy Lobley Consulting dated 15 April 2025

the FRA that once the septic tank reaches the end of its useful life it will be replaced with a package treatment plant. Appendix 1 of the FRA is an inspection of the septic tank being undertaken, which confirms it is a one chambered system, and believes it discharges directly into an overflow soakaway. However, it is not clear whether it discharges underground, how much or the composition of the drainage, and I accept the inspection was carried out some time ago.

14. Nevertheless, development plan policy context requires satisfactory provision for foul sewage and surface water drainage, it falls silent on what types of foul drainage systems may be appropriate or adequate and nothing that outlines that the form of drainage proposed would be unacceptable. The policy provision outlines this can be done either by agreeing details before planning permission is granted, or by imposing conditions or completing planning agreements to achieve the same outcome.
15. I accept that there is a distinct lack of information from the appellant on when it would be replaced or what the financial burden maybe to connect to the public sewer. However, the PPG does not rule out that other options are available and could be implemented subject to regulatory controls. Moreover, the site would be of modest size accommodating only 1 pitch, with touring caravans where the feasibility and costs would be more realistic to alternative solutions than connecting to a public sewer.
16. Nevertheless, this matter could fall within the remit of a suitably worded condition which requires the details to be submitted within a set time frame. This would allow the appellant to provide actions to demonstrate that it is not reasonable to connect to the public sewer, as set out in the EA's guidance at EA4 of their response. If details were not submitted or found to be unacceptable, including that a solution could not be found, then the planning permission would cease. Furthermore, this would align with the PPG and the use of planning conditions.
17. For the reasons given above, I conclude that the imposition of a condition, the means of foul drainage would be sufficient. This would be compliant with Policy DC14 of the LP, as set out above.

Other Considerations

18. The Planning Policy for Traveller Sites, 2024 (PPTS) requires that criteria should be set to guide land supply allocations where there is an identified need. Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. These should be fair and facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community.
19. The North Lincolnshire Gypsy and Traveller Accommodation Assessment, 2021 (GTAA) identifies there is an identified need for 17 pitches over the plan period of 2021-2038. Policy CS10 identifies that 46 pitches were required between 2007 and 2016 and sets out the Council's approach on sites with the need to meet criteria. However, the Council acknowledge that there is no monitoring evidence that these have been delivered within the plan period or to date, and no sites have been allocated going forward.
20. Therefore, from the evidence before me the Council accept that they are unable to demonstrate a 5-year supply of pitches at this present time and paragraph 11(d)

would therefore be engaged. Even if it could, there appears to be recognition that there is probably an immediate unmet need in the area. The Council further accepts the development would comply with policy criteria set out in LP Policies CS1, CS2, CS3 and CS10 and CS Policy RD2. Planning law requires that applications must be determined in accordance with the development plan and with regard to any material considerations.

21. At paragraph 28 of the PPTS it states that the provisions of Paragraph 11(d) of the Framework will apply if the Council is unable to demonstrate a 5-year supply of deliverable sites. It requires consideration to then be given on how they could overcome planning objections to particular proposals including using planning conditions. The appellant has provided evidence of the personal circumstances of future occupation of the site by their family, and I have regard to the best interests of the children.
22. In the circumstances of this case, the addition of 1 pitch carries positive weight as it contributes to the supply and the Council's ability to meet its pitch target and unmet need. Nevertheless, I have found there is development plan policy compliance in this case and conditions could be imposed to overcome objections. It is therefore unnecessary for me to consider these matters further including the personal circumstances.

Other Matters

23. Several concerns have been raised by interested parties relating to the road surface, highway safety, health risks, and its compatibility with the area. I have no substantive evidence to support these concerns. Moreover, the Council have confirmed that other than foul drainage the development in principle would be acceptable in terms of highway safety, character and appearance, location and access to nearby services and shops.
24. In addition the appellant has indicated willingness to address measures of landscaping and boundary treatments with conditions to improve the site appearance. Regarding odour control, a risk assessment was provided and given the low risk, there is nothing to suggest that this is not the case. The Council's environmental protection recommends conditions relating to land contamination.
25. In coming to my decision, I have had regard to the rights of the appellant / intended occupiers of the site under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 (HRA). Article 8 affords the right to respect for private and family life and home, including the traditions and culture associated with the ethnical identity of the gypsy and traveller way of life and the best interests of the children. It is a qualified right, and interference may be justified where that is lawful and in the public interest. The concept of proportionality is crucial.
26. I have found that the proposal would not cause harm and comply with the development plan taken as a whole, there are no material considerations advanced that would lead me to take a different view. It is therefore not necessary for me to consider a personal condition, or to impose a condition to time-limit the development, as this could lead to an interference under Article 8 of the HRA.
27. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to advance equality of

opportunity and foster good relations between people who share protected characteristics and those who do not share it. In granting permission for the development, it would allow the opportunity for intended occupants to foster good relationships with the local community, therefore it advances opportunity which are in line with the PSED.

Conditions

28. I have considered the conditions which were originally suggested by the Council. In considering the Framework and PPG, I have undertaken some minor editing and rationalisation. The main parties were further consulted on those conditions, and I have considered those representations received.
29. A condition (1) specifying the approved plans is necessary as this provides certainty. It is necessary and fundamental to the acceptability of the proposal to impose a condition (2) to ensure the development is occupied by people that meet the PPTS 2024 definition. To protect the living conditions of future occupants and prevent harm to the character and visual qualities of the area, I have imposed conditions (3, 4, 5) that limits the number of pitches and caravans, no commercial activities/storage and to restrict the relocatable building as only daytime living accommodation.
30. I have imposed a condition (6) relating to a site development detailed scheme, which will require details of hard and soft landscaping, boundary treatments, external lighting, surface and foul drainage. These are necessary for visual qualities of the area, future living conditions, mitigates flooding and provides suitable waste provisions to be policy compliant. The time for the submission of these details is 3 months, which is sufficient and a reasonable timeframe. This will then allow the Council to assess the schemes submitted. Condition (7) is necessary for contamination and risks on human health to be prevented, whilst condition (8) relates to the long term maintenance of the any agreed landscaping scheme, to protect the visual amenities of the area.
31. I have not imposed the suggestion from the EA to restrict the development in 3 months to only discharge foul drainage to the mains sewerage, this would not be compliant with development plan policy, nor the Framework or PPG as this could place unnecessary burden on the appellant. Condition (6) would satisfy the requirements to allow the appellant to provide a suitable scheme for consideration by the Council including full details of any alternative scheme and disposal of foul drainage and waste.

Conclusion

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

K A Taylor

INSPECTOR

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Land at Marsh Lane, Barnetby le Wold, North Lincolnshire, DN38 6DJ

Schedule of conditions attached to planning permission.

- 1) The development hereby permitted shall be carried out in accordance with drawing no's TQRQM23054164853770 and M/01/01/049/22.
- 2) 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.
- 3) There shall be no more than one pitch on the site, with no more than two touring caravans stationed at any time on the pitch, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended.
- 4) The relocated building or the grain store hereby approved as shown on drawing no M/01/01/049/22, shall not at any time be used as overnight accommodation.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) The use and any other operations 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 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Notwithstanding any details shown on the approved plans, within 3 months of the date of this decision a detailed scheme for:
 - (a) hard and soft landscaping of the site. This shall include details of boundary treatments, hard surfacing, tree, hedge and shrub planning, including species, plant sizes, numbers and densities;
 - (b) the proposed and existing external lighting on the boundary and within the site;
 - (c) the means of surface water drainage of the site, based on sustainable drainage principles to include information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - (d) the means of foul drainage of the site, including full details of the proposed package treatment plant, it's timings, implementation and management and shall include details relating to the feasibility and costs of providing an alternative connection to the mains sewerage system.

shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation

and a management and maintenance plan for the lifetime of the development for c) and d).

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the landscaping, lighting, surface water and foul drainage 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 schemes shall have been carried out and completed in accordance with the approved timetables.

Upon implementation of the approved schemes specified in this condition, they shall be maintained, retained and remain in use.

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.

- 7) Within 3 months from the date of this consent, an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced) shall have been submitted for the written approval of the local planning authority.

If any contamination is found, the use and development shall cease until i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the use hereby permitted has been submitted to and approved in writing by the local planning authority; ii. the site has been remediated in accordance with the approved measures and timescale; and iii. a verification report has been submitted to and approved in writing by the local planning authority. If, during the course of the use and development, any contamination is found which has not been previously identified, the use shall be suspended until: i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

- 8) Any seeding or turfing which fails to establish or any trees or plants which, within five years from the approved landscaping being completed, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

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