

Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER: 3(b)

APPLICATION DETAILS

APPLICATION NO:	PL/5/2010/0311
FULL APPLICATION DESCRIPTION	CHANGE OF USE TO CARAVAN SITE FOR OCCUPATION BY GYPSY-TRAVELLER FAMILY WITH ASSOCIATED DEVELOPMENT INCLUDING HARDSTANDING, ACCESS ROAD, SEPTIC TANK, SMALL UTILITY BUILDING AND LANDSCAPING (PART RETROSPECTIVE)
NAME OF APPLICANT	MR AND MRS J SMITH
SITE ADDRESS	LAND REAR OF WAYCOT, WINGATE ROAD, TRIMDON STATION, TS29 6AR
ELECTORAL DIVISION	THORNLEY
CASE OFFICER	Barry Gavillet 0191 5274305 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

Site:

- 1 The site is part of a sloping field of approximately 1.5 hectares to the south of Wingate Road (C22), lying within but adjoining the southern boundary of the Trimdon Station settlement as defined in the former District of Easington Local Plan.
- 2 The development the subject of this application has already been commenced insofar as caravans and a steel container have been brought onto the land along with a trailer, the access track has been created and some lengths of fencing and minor landscaping works have been implemented. The site is accessed by a track of approximately 90 metres in length that is also used to access domestic garages, deliveries to a retail unit near the access point of the track and by pedestrians accessing recreational facilities to the south.

Proposal:

- 3 This application proposes the change of use of a field formerly used for horse grazing to a caravan site for occupation by a gypsy-traveller family, living as three separate families consisting of the applicants and their two sons in the mobile home, their daughter and husband in a touring caravan and their other son, his wife and

three children in the remaining touring caravan. The development also includes a hardstanding, access road, septic tank, utility building, container and bow top trailer. It is also intended to enclose the site with earth mounding and hedging. The application is part retrospective as some of the buildings have been on site, and some members of the family have occupied the site for over two years. Some minor landscaping works have also been carried out.

PLANNING HISTORY

07/664: Stables and general purpose building – Refused 12/07.
08/272: Stables and storage building (resubmission) - Refused 06/08.
08/0453: Change of use of land to gypsy caravan site and associated works – Refused and subsequent appeal dismissed.

PLANNING POLICY

4 NATIONAL POLICY:

Planning Policy Statement 1: Delivering Sustainable Development sets out the Government's overarching planning policies on the delivery of sustainable development through the planning System.

Planning Policy Statement 3: Housing (PPS3) underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.

Planning Policy Statement 7 (PPS7) sets out the Government's planning policies for rural areas, including country towns and villages and the wider, largely undeveloped countryside up to the fringes of larger urban areas.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

5 LOCAL PLAN POLICY:

District of Easington Local Plan

Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

Policy 72 - The development of permanent, temporary or transit accommodation for travellers will not be allowed in the Green Belt, the coastal zone or on visually intrusive sites

in the countryside. Consideration will be given to distance to local services, access arrangements and amenity of people living and working in the vicinity.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.easingtonlocalplan.org.uk/>

CONSULTATION AND PUBLICITY RESPONSES

6 STATUTORY RESPONSES:

Parish Council – objection. The Parish are concerned that the access to the site is inadequate, and query why the County Council have not taken any enforcement action since the previous application was refused and dismissed at appeal.

Environment Agency – no objections.

Durham Constabulary – no objections.

Northumbrian Water – no objections.

7 INTERNAL CONSULTEE RESPONSES:

Highways Officer – objection. The access to the site has a sub-standard junction visibility splay onto the C22, Wingate Road. The additional family will increase the number of potential traffic movements at this access.

Planning Policy – the proposals are acceptable in planning policy terms.

Environmental Health – no objections. However, the burning of waste should not be permitted on the site.

Landscape Officer – the site is visibly prominent. However, landscaping should adequately mitigate any adverse impacts on the landscape.

8 PUBLIC RESPONSES:

There have been 9 individual letters of objection from nearby residents. The main reasons of concern are:

- Adverse impact on the landscape
- Anti social behaviour problems
- Dangerous, inadequate access to the site
- Would result in poor outlook from residential properties
- Burning of waste should not take place on the site
- Livestock on the site would attract vermin
- Would result in decrease in house prices

A petition in opposition to the proposals has also been received from the Local Neighbourhood Watch group containing the names of 95 local residents.

9 APPLICANTS STATEMENT:

It is accepted that the August 2009 appeal decision is a material consideration. This identified just one issue of concern to planning which related to the site access off Wingate

Road. The Inspector agreed that this was a very sustainable location which would reduce dependence on the motor car. The site is within easy walking distance of the bus stop, shop and primary school. It is clear that there have been further developments since the August 2009 appeal decision:

- a) The personal circumstances of the family have changed. Mrs Maria Smith has provided information to confirm that she has a serious medical condition. Daughter Natalie has been found to suffer with fits, is now married and is pregnant. Son James is also now married and his partner has young children who attend school during the winter when they are not away travelling.
- b) Confirmation has been provided to show that the previous owners had established a right to access the land along the access track off Wingate Road.
- c) The Council has approved a reserved matters application for a 4 bed dwelling which makes shared use of the same access onto Wingate Road. Notwithstanding concerns about the visibility to the right the Council did not seek to restrict the size of the dwelling or refuse to give permission for the plot to be accessed from the highway.
- d) The new Memorial Garden car park is now in operation and I am told most users are now using this rather than the hard standing behind Nattress Terrace. This has diverted traffic away from the car park area to the rear of Nattress Terrace. The proposal would not add to historic use of this access.
- e) Given the continued shortage of sites in Durham County and recent announcement of the Government in May 2010 that no further grants are to be made available for new and improved socially provided sites for Gypsy Travellers, there is now even greater reliance on self provision of small family sites. Guidance in PPS3 states that favourable consideration should be given to applications for new housing development where local authorities do not have a 5 years supply of land available to meet an identified need.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=109827>. Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATION AND ASSESSMENT

The main issues to consider in determining this application are:

- National Planning Guidance
- District of Easington Local Plan Policies
- Highways Issues
- Parish Council and residents objections
- Previous Inspectors decision
- Human Rights and the change in the family circumstances

10 National Planning Guidance

Circular 1/2006 contains the most up to date guidance on Gypsy policy and as such carries considerable weight in determining planning applications. The Circular states that determination of applications for planning permission must be in accordance with the development plan unless material considerations indicate otherwise. The Circular makes clear that areas of open countryside not otherwise designated will be appropriate in principle for Gypsy sites and sites on the outskirts of settlements are regarded as acceptable. The general aims of the circular are to increase the number of sites for Gypsy-Travellers by 2009-11.

The circular also states that Local Planning Authorities should be able to release sites for development sequentially, with sites identified in Development Plan Documents (DPDs) being used before windfall sites. It should be noted that there are no sites identified in any DPDs within Durham. It is also stated that other considerations for gypsy and traveller site applications are likely to include the likely impact on the surrounding area, the existing level of provision and need for sites in the area, the availability (or lack) of alternative accommodation for the applicants and other personal circumstances.

A County Durham study has identified an immediate need for 61 pitches to meet current shortfall and 37 further pitches for family formation in the period 2008-2015. The current situation at the public gypsy sites in the County is that there is no spare capacity and the rate of turnover is generally low. A recent appeal decision within the former Easington area of the County recognised that there is a demonstrable unmet need within the County.

In terms of this national planning guidance, it is considered that the proposed development does not constitute a proposal which is unacceptable in principle, as it is within the settlement boundary in a sustainable location in terms of distance to community facilities and public transport, and there is a recognised need for gypsy-traveller sites in the County.

11 District of Easington Local Plan Policies

Saved policy 72 of the Local Plan is most relevant in this instance and refers specifically to the development of permanent, temporary or transit accommodation for travellers. The policy states that sites will not be allowed in the green belt, the coastal zone or on visually intrusive sites in the countryside, it is considered that the application site is not within any of these categories. The Local Plan Policy does, however, allow for sites within reasonable distance of local facilities, where suitable access can be provided and the proposed use would have no detrimental effects on the amenity of people living or working in the vicinity of the site. It is considered that the proposed development adheres to most of the criteria set out in policy 72 as the siting of the caravans is within the established settlement boundary of Trimdon, and it is accepted that the site is within a reasonable distance of local facilities such as bus services, shops and a school. However, it is not considered that the access to the site is suitable for reasons set out later in the report.

Policies 35 and 36 of the Local Plan are also relevant, these relate to the impact on any surrounding residents and the visual amenity of the area and also highways issues. The nearest residential properties in Trimdon are approximately 100 metres to the northeast. It is considered that the siting of the caravans and associated buildings on this site would not have any adverse visual impacts on these occupiers due to the distance between the properties and the residential use proposed. Neither is it considered that the proposal would have an adverse impact on the countryside as although the site is fairly prominent, it is considered that there are no residential properties immediately overlooking the site, and that an appropriate landscaping scheme could mitigate any potential impacts on the landscape.

Having regard to all these circumstances, it is considered that the proposal will not necessarily have detrimental effects on either the environment generally or the amenities of nearby residents in particular either by reason of visual intrusion, noise or other pollution or by affecting privacy.

12 Highways Matters

The Highway Authority has objected to the proposal because the junction of the main access to the applicant's field with the classified road C22, Wingate Road, which is the main

road through Trimdon Station, is poorly aligned in that the track joins the C22 at an angle. They are concerned that the alignment is particularly poor for vehicles approaching from the east along Wingate Road, but especially from a junction visibility point of view. The junction sight visibility to the east is very poor at only 2.4m x 25m (approximately) and, whilst to the west it is better at 2.4m x 40m (approximately), both fail to meet the recommended Manual For Streets standard of 2.4m x 43m.

The 2.4m x 25m sightline to the east would be appropriate to oncoming vehicle speeds at only 20mph, rather than approaching the 30mph design speed for the C22 which necessitates the required 2.4m x 43m visibility. It is particularly this sub-standard sight visibility to the east which is the reason for the objection. The Highways Authority have also pointed out that since the previous application was refused and consequently dismissed at appeal on highways grounds, another family has moved onto the site. It is considered that the additional family would increase the number of potential traffic movements at this access and therefore the situation would be worsened.

Reference is made in the applicant's statement to the planning permission for the dwelling at Waycot, which was given outline planning consent in 2006 and reserved matters consent in 2010, and which uses the same access. At the time of the outline application the details of the access were unclear and this was not reassessed by the Highways Authority at the reserved matters stage. Notwithstanding this, it is not considered that this approval should justify a further increase in the use of the access. This view is reflected in the inspectors decision as he concluded that "the 2006 permission to grant consent for an additional dwelling at Waycot should not be seen as justification for further traffic generating development using the same unsatisfactory access to the main road."

Reference is also made in the agents submission that the applicants would be prepared to park on Wingate Road (C22) and walk to the application site. However, it is not considered that a planning condition to this effect would meet the required tests.

13 Parish Council and residents objections

The Parish Council have objected to the proposals, mainly on the grounds of the dangerous access, but also on anti-social behaviour grounds, which is a police matter. They also query why enforcement action was not taken following the previous refusal of planning permission and subsequent appeal dismissal. The Council acknowledges the concerns relating to the access and this is reflected in the Highways Officers objection. In terms of a lack of enforcement action, this has been due to the change of circumstances on the site which has led to further consideration being given to Human Rights issues. It is recommended that steps to begin enforcement proceedings should be taken promptly should the current application be refused. However, it is acknowledged and should be noted that the applicant has a right to appeal against the refusal of planning permission that may prolong these proceedings.

With regard to the objections from residents, most of these are not material planning considerations as any potential anti-social behaviour is a police matter, burning of waste and vermin is an environmental health matter and a decrease in house prices is not a planning issue. However, with regard to a poor outlook from residential properties or an impact on the landscape it is not considered for the reasons set out above that any adverse impacts would be caused. Again it is acknowledged that the access is inadequate and would lead to increased danger to the public.

14 Previous Inspectors decision

The previous inspector's decision is a material planning consideration, which should be taken into account when deciding this application. The Inspector concluded that "The lack of adequate visibility at the access onto the main road means that the residential use would give rise to serious highway dangers. Whilst the appeal development would seemingly benefit from a right of vehicular passage over the access the appellant's land ownership does not extend to the junction with the main road or the land on either side of it. Any improvement to visibility is constrained by the bend in the road to the east and the presence of the bus stop. Having regard to these considerations it is not possible to overcome the problem by reasonable practicable works that could be achieved by planning conditions. On the other hand, the evidence of the need for sites for gypsies and travellers in County Durham, and the absence of available authorised pitches, together with the implications for the health and education of the occupiers of the site if they were to leave, are matters which weigh in the applicant's favour.

Circular 01/2006 advises that consideration should be given to granting a temporary planning permission where as here, there is an unmet need, no available sites and a prospect that new sites will be available though DPDs. The latter prospect remains a distant one. Nevertheless, whilst a temporary planning permission is not to be seen as setting a precedent for any future applications for full planning permission, I consider the granting of planning permission for, say, three years would unacceptably perpetuate the dangers associated with the use of the access.

Having considered all other matters raised, I have come to the conclusion that the harm caused by the development to highway safety is not outweighed by other considerations."

In light of this decision, and taking into account the change in the circumstances of the families on the site, it is considered that human rights issues should be given more weight. However, due to the intensified use of the already dangerous access which would potentially worsen highway safety, it is not considered that that the human rights issues would outweigh the harm caused to highway safety.

15 Human Rights and the change in the families' circumstances

Human Rights legislation provides for the "Right to respect for private and family life" (Article 8 of the Human Rights Convention). That right is not absolute, however, but qualified and the local planning authority is consequently legitimately able to take into account other factors in determining whether to grant or refuse planning permission. Any decision however must be "necessary and proportionate". Generally this means the local planning authority must balance the public interest against the applicant's personal circumstances.

With regard to the change in the families' circumstances, the applicants agent has provided additional information as part of the planning application which gives details of a range of medical conditions along with details of children who now attend local schools.

It is acknowledged that there has been a change in family circumstances since the previous application was refused and subsequently dismissed at appeal, and it is recognised that refusing planning permission would require the families to vacate the site without any suitable accommodation being guaranteed. However, such interference with human rights should be balanced against the wider public interest which would include highway safety issues. It is considered that the use of a dangerous access is harmful to the safety of the

general public as well as the applicants and their associated families, and is considered to override the personal circumstances outlined in the supporting information. On this basis, the refusal of planning permission is considered necessary to safeguard public safety, and is proportionate as the principal means of achieving this.

CONCLUSION

- 16 While this proposal has given rise to a significant amount of public objection, the use of the land is not considered to be unacceptable in principle, and is not considered to give rise to significant adverse effects on residential amenity or the surrounding landscape. It is also acknowledged that the addition of another family on the site, and a change in family circumstances, has led to more weight being given to the human rights issues.
- 17 However, the Highway Authority has raised a significant objection on highway safety grounds. The sub-standard junction visibility together with the increase in traffic movements are considered to be of sufficient concern to justify a refusal of planning permission. This situation has been worsened by the addition of another family on the site since the previous application was refused, as it would lead to additional traffic using the dangerous access and thus increasing the harm to public safety.

RECOMMENDATION

- 18 That the application be **REFUSED** for the following reason:
1. 1. It is considered that the junction of the access road leading to the application site with the C22, Wingate Road, is sub-standard in terms of its alignment and the available sight lines, particularly to the east for traffic joining the C22 and that the proposed development would be likely to result in an unacceptable increase in the number of traffic movements at this junction to the detriment of highway safety, contrary to Policies 1, 35, 36 and 72 of the District of Easington Local Plan.

And that:

2. Authority be given to the Head of Planning to take the necessary legal action to secure the satisfactory re-instatement of the land to its previous state as an open field, if the applicants do not undertake the necessary works voluntarily.

REASONS FOR THE RECOMMENDATION

1. The development was considered unacceptable having regard to the following development plan policies:

DISTRICT OF EASINGTON LOCAL PLAN
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PLANNING POLICY STATEMENT/GUIDANCE
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ENV35 - Environmental Design: Impact of Development
ENV36 - Design for Access and the Means of Travel
GEN01 - General Principles of Development
HOU72 - Control of sites for travellers
PPS1 - Delivering Sustainable Development
PPS3 - Housing
PPS7 - Sustainable Development in Rural Areas

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- District of Easington Local Plan 2001
- Planning Policy Statements / Guidance, PPS1, PPS3, PPS7
- Circular 1/2006 Planning for Gypsy and Traveller sites
- Consultation Responses

