

# Planning Services

## COMMITTEE REPORT

### APPEAL DECISION

APPEAL REF: APP/X1355/A/11/2149013

LPA REF: 7/2010/0348/DM

**APPEAL AGAINST THE REFUSAL OF PLANNING PERMISSION TO CHANGE THE USE OF AGRICULTURAL LAND TO A TRAVELLERS SITE FOR TWO CARAVANS, TWO TOURING CARAVANS, A MOBILE WASHROOM AND ASSOCIATED VEHICLE PARKING ON A FIELD ADJACENT TO SALTERS LANE, TRIMDON, CO DURHAM**

#### Background

The appeal planning application was referred to Planning Committee on 03 February 2011 at the request of Electoral Divisional Members. Officers recommended that planning permission be given for a 3-year temporary period on a personal basis. However on the balance of considerations, Members resolved to refuse the application for the following reasons:

- 1. While it is accepted that there is an unmet need for accommodation for Gypsy and Traveller families in County Durham, Circular 11/95 'The Use of Conditions in Planning Permissions' advises that temporary planning permission may be justified where it is expected that planning circumstances will change in a particular way at the end of the period of the temporary permission. As there is no reasonable prospect that new sites will become available in either the short or medium term, a time limited consent as suggested by Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites' can not be justified in this case.*
- 2. The proposed development would intrude into the open countryside and have a significant detrimental impact upon its character and appearance, contrary to policy H23 of the adopted Sedgfield Borough Local Plan.*

An appeal hearing took place on 26 July 2011, which was attended by officers and Cllr M Dixon (Planning Committee Chair) who made representations on behalf of members.

#### Appeal Decision

The Planning Inspector **allowed** the appeal and granted planning permission for a temporary period of 5 years, subject to a number of conditions including those to mitigate visual impact, ensure adequate visibility at the site access and the provision of adequate services before the use is commenced. The Inspector also amended the application description to increase the scale of the approved development (as described above) based on evidence presented at the appeal.

No costs were awarded to either the appellant or the Local Authority. A copy of the Inspector's decision letter is available for inspection at the Spennymoor Area Office and can also be viewed online on the Planning Inspectorate's website.

#### Main Issues

In arriving at the decision the Inspector considered the following main issues:

- There is no reason to question the applicant's claims that the appellant and her family fall within the definition of gypsies as defined within ODPM Circular 01/2006 (*Planning for Gypsy and traveller caravan sites*).
- Existing draft policies relating to the replacement of Circular 01/2006 and the National Planning Policy Framework (NPPF) carry little weight at this time.
- The appeal site is clearly identified and excludes the adjacent land on which a barn building stands. This is separate issue and cannot influence the Planning Inspector's decision.
- There is a need for approximately 60 sites for Gypsies and Travellers within Durham County as assessed in the 2007 Gypsy and Traveller Accommodation Assessment (GTAA). This need carries significant weight in planning terms.
- It was noted that there were no current plans for new Council sites and that a Development Plan Document (DPD) regarding site allocation was not expected until mid 2014 at the earliest. However, the Inspector disagreed with the Council's conclusions that in light of any policy support, temporary permission would not accord with the advice of Circular 01/2006. He was of the view that the circular encourages the provision of private sites in appropriate locations and the consideration of time limited permissions where there is known need and reasonable prospect of future provision.
- The personal needs of the applicant attract significant weight. Access to healthcare and education would be made easier from a settled location. The appellant and her family have an immediate need for a site, with the Council unable to offer any alternative.
- In terms of landscape impact, the Inspector found that although the proposed development would be of manageable impact, it would be harmful to the character and appearance of the locality, and conflicts with the totality of adopted SBLP Policy H23 in this respect. The development would be seen to add a residential use into a rural area, having a degree of prominence which would result in it appearing incongruous to its setting.
- The Inspector concurred with the views of objectors that the Trimdon landscape was a valuable local asset and the proposed development was perceived to be harmful to this setting. However these concerns were considered to be outweighed by other matters in favour of the development.
- There would be no undue harm to highway safety as a result of the development. Junction visibility can be dealt with by of condition.
- Concerns that sewage could affect groundwaters and the River Skerne are negated by the Environment Agency withdrawing its concerns. The installation of a package treatment plant can be dealt with by of a condition.
- The site is not so remote from services that it should weigh against the proposal.
- The nearby SSSI to the east would not be harmed by the proposal.
- Arguments in favour of permanent permission are less than compelling. In order to allow a period in which new sites would be likely to become available, a 5 year temporary consent would be realistic.
- Dismissal of the appeal would have a disproportionate effect upon the rights of the appellant under Article 8 of the European convention of Human Rights.

## Conclusion

The Planning Inspector agreed with many of the points raised by the Council but reached a different conclusion based in particular on the current policy position regarding site allocations and national legislation and guidance. Members are requested to note the decision.

Now that planning permission has been granted, officers will proceed to deal with discharge of conditions issues.

*Report prepared by Mark O'Sullivan, Planning Officer*



APPLICATION NUMBER	7/2010/0348/DM
LOCATION	FIELD AT SALTERS LANE, TRIMDON, CO DURHAM
PROPOSAL	CHANGE OF USE FROM AGRICULTURAL LAND TO TRAVELLERS SITE FOR TWO CARAVANS AND ASSOCIATED VEHICLE PARKING