

APPEAL BY MR D AND T CLEE, J WILSON AND M LEE AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR CHANGE OF USE OF LAND TO MIXED USE FOR THE STABLING/KEEPING OF HORSES AND AS A RESIDENTIAL CARAVAN SITE FOR 4 GYPSY FAMILIES, TOGETHER WITH THE ERECTION OF A STABLE BUILDING, ERECTION OF 4 AMENITY BUILDINGS AND LAYING OF HARDSTANDING AT LAND AT BLACKBROOK NURSERY, NEWCASTLE ROAD, BLACKBROOK

<u>Application Number</u>	20/00368/FUL
<u>LPA's Decision</u>	Refused on 20 August 2020
<u>Appeal Decision</u>	Allowed
<u>Date of Decision</u>	7 March 2022

The Inspector noted that the reasons for refusal of the Council included matters relating to the suitability of the existing access/visibility splays and whether the proposed development would have an adverse impact on the Public Water Supply. Additional information provided by the appellants to address such concerns were assessed and accepted by the Highway Authority and by Severn Trent Water, the responsible water undertaker, subject to conditions. In light of this expert advice the Council chose not to defend such reasons for refusal.

As interested parties were still concerned in respect of both matters the Inspector did address them in more detail in the decision letter, however based on the evidence provided did not consider that such matters justified refusal.

The Inspector identified the main issues as:

- The effect of the proposal on the character and appearance of the countryside;
- Whether the proposed location of the gypsy caravan site would represent a suitable location in respect of accessibility for pedestrians and offers a real choice to residents in respect of sustainable modes of transport; and
- Whether any identified harms would be outweighed by other considerations, including the general need for, and provision of sites, the availability of alternatives, and the personal circumstances of the appellants and their families, so as to justify the development.

Character and appearance

The Inspector considered that, notwithstanding that Gypsy sites along with stables are not uncommon in the countryside, the appeal proposal would not contribute to and enhance the natural and local environment, the intrinsic character and beauty of the countryside being unacceptably eroded. The terms of the relevant development plan policies would thereby be compromised, the character and quality of the landscape being unsatisfactorily undermined. The Inspector ascribed considerable weight to this policy conflict in the balance of the decision.

Sustainability of the location

It was accepted that the occupiers of the appeal site would rely upon private motor vehicles for their transport needs. The Inspector, however, considered that the travel distances to services are moderate and not different for those in the traveller community to those in the settled community. The Inspector considered, nonetheless, that there is a qualified tension with the terms of Policy CSP7 and ascribed limited weight to that conflict.

Other considerations

General need for and provision of sites

The Inspector indicated that the unmet need for Gypsy and Traveller sites in the Borough and the fact that the Borough Council cannot identify a five-year supply of deliverable land for the provision of new Gypsy sites weighed significantly in favour of the proposal.

Alternatives

A lack of alternative accommodation available was referenced. The Inspector heard from the appellants that should they have to leave the appeal site they have nowhere else to go other than parking on the roadside or pitching on other unauthorised land. This would interfere with the human rights of the appellants and their families as there is no other lawful home currently available to them. This weighed significantly in favour of the proposal.

Personal circumstances

The Inspector highlighted that the appellants consist of four families which include 10 children. One child has severe health issues and cannot walk or talk. Another of the families has a child whose health would be seriously compromised living in unsanitary conditions.

The Inspector considered in this case achieving a safe and secure home base in which all children can thrive, both in terms of their overall health and educational needs, is a primary consideration. Living on the appeal site, as opposed to a life on the road, would greatly improve the living conditions of the children and maintain access to education. This weighed heavily as a primary consideration in the balance of the decision.

Whether the proposal represents intentional unauthorised development

The Inspector, considering the circumstances described by the appellants, as well as a lack of readily available Gypsy sites within the Borough, afforded little weight to the intentional unauthorised development that has been carried out in the balance of this decision.

Planning balance and conclusion

Conflict with development plan policy and that of the National Planning Policy Framework has been identified in respect of the impact of the proposal on the character and appearance of the countryside location. In addition it has been concluded that the scheme does not offer a real choice to residents to access sustainable modes of transport. The Inspector considered that in combination the total amount of harm would be significant and would weigh against the proposal.

On the other side of the balance is the benefit that the proposal would contribute to meeting unmet need and towards achieving a five-year supply of deliverable land for the provision of new Gypsy sites; the lack of alternative to the appeal site to facilitate the appellants Gypsy way of life; and the provision of a settled base with access to domestic facilities in combination attract, in the Inspector's opinion, substantial weight in favour of the proposal to outweigh the identified harms. Consequently the Inspector concluded permission should be granted subject to conditions.

The Inspector gave consideration to whether a temporary permission would have been more appropriate in this case. However, there is uncertainty about where and when future sites may be allocated.

In this climate of uncertainty the Inspector indicated that these families require a long term settled base to allow them to care for their children, supporting one another with ready and immediate access to necessary health services and educational facilities, including specialist services. These specific circumstances tips the balance of this decision to that of a permanent planning permission. That permanence should be tempered by the imposition of a personal condition limiting occupancy to solely the appellants and their dependant families.

The planning decision setting out the reasons for refusal and the appeal decisions in full can be viewed via the following link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00368/FUL>

Recommendation

That the appeal decision be noted.