

Parish: Brompton

Committee date: 27 June 2019

Ward: Northallerton North & Brompton

Officer dealing: Mr C Allison

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Target date: 1 July 2019 (Extension of Time)

19/00016/MRC

Variation of conditions attached to Planning appeal APP/G2713/C/13/2198583 - to allow the siting of an additional static caravan including a change of use of agricultural land to use as a single additional residence.

At The Workshop, Stokesley Road, Brompton

For Mr C Bird

This application is referred to Planning Committee as the proposal is a departure from the Development Plan

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 The site is located on the fringes of Brompton, with an access directly off Stokelsey Road. There are some bungalows to the north of the site with development generally of dispersed character. The majority of land surrounding the site is rural in character, comprising fields and paddocks, enclosed by trees and hedgerows.
- 1.2 Permission was granted retrospectively on appeal for a 'mixed agricultural and residential use including the siting of a static caravan and a touring caravan for residential use with domestic paraphernalia'. Condition 1 of the decision states that the land shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites or any replacement guidance.
- 1.3 Condition 2 states that there shall be no more than 1 pitch on the land, and on the pitch hereby approved no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1969 as amended) shall be stationed at any time, of which only one caravan shall be a static caravan.
- 1.4 The application seeks to vary the two conditions above for an additional pitch to be added to the site to accommodate the owner's grand-parents on the site. This would therefore entail the siting of a further static and a touring caravan on the site bringing an overall total on the site to four caravans, two statics and two tourers. Furthermore, this application also seeks consent for the laying of a hard standing which would be used for the base of the proposed new static and around the previously approved utility building.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 11/00205/CAT3 (Enforcement) – Unauthorised engineering works and alleged change of use of agricultural land for residential occupation – Enforcement Notice served which was appealed, the enforcement notice was quashed and planning permission was granted.
- 2.2 13/00129/CAT3 (Enforcement) – Unauthorised works – Building – Including new base – internal works including breezeblock walls on the external stone block work – workshop inside and several dog kennels – Enforcement Notice served which was appealed, the enforcement notice was quashed and planning permission was granted.

- 2.3 14/01751/FUL – Retrospective application for multi purpose barn/shed, internal dog kennels and adjoining run – Refused 7 April 2015 for the following reasons:

“Notwithstanding the proposed alterations to the external appearance of the building it will remain prominent within the site and add to the loss of openness caused by the development overall, consequently detracting from the appearance of the land and locality contrary to Policies CP16, CP17, DP30, and DP32.

No need for a building of the scale proposed, which could overcome the harm to the character and appearance of the area has been proven within the details set out within the application, contrary to Policy CP4.

Notwithstanding the applicant's confirmation that the building is to be used for domestic purposes only, it is considered that a building of the scale proposed could be detrimental to the amenity of adjoining and adjacent residents by virtue of the noise and activity arising from its use for the keeping of dogs when used to its full potential, contrary to Policy DP1.”

- 2.4 16/02657/FUL – Construction of a stable building including cart and implement store, tack and tool/garden equipment store with hay loft/feed store over – Application was refused but then was allowed on appeal.

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP1 – Sustainable Development
Core Strategy Policy CP4 – Settlement Hierarchy
Core Strategy Policy CP8 – Type, size and tenure of housing
Core Strategy Policy CP16 – Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 – Promoting high quality design
Development Policies DP1 – Protecting amenity
Development Policies DP9 – Development outside development limits
Development Policies DP14 – Gypsies and Travellers Sites
Development Policies DP30 – Protecting the character and appearance of the countryside
Development Policies DP32 – General Design
National Planning Policy Framework
Planning Policy for Travellers Sites – Published August 2015
Hambleton Gypsy and Travellers Accommodation Assessment June 2016

4.0 CONSULTATIONS

- 4.1 Parish Council – Have raised concerns about the effects on the amenity value of the adjoining residential property and asks for the Council to take this into account.

- 4.2 Public comments – A site notice was posted and neighbours were consulted on the application and one letter of objection has been received with the comments summarised below:

- The change of use for agricultural to residential occupation on an approved gypsy site is this to be overturned.
- Appears to be several unaccounted dwellings on the site where up to three families currently live on the site.
- A new house appears to have been built at this address, where permission was given for one stable with a hayloft.

- Concerned about the lack of enforcement on the site and would the conditions be monitored to ensure compliance.

5.0 ANALYSIS

- 5.1 The main issues to consider are: (i) principle of development; (ii) whether the additional static mobile home would have any impact on the character and appearance of the countryside; (iii) the impact of the additional mobile home on the amenity of the adjoining residential property

Principle of Development

- 5.2 The principle of the site as a gypsy and traveller site has been established through the earlier appeal. The addition of a further static mobile home on the site needs consideration against DP14 of the Local Development Framework which sets out the policy parameters for the development of Gypsy and Traveller sites. However, within the statement provided by the applicant the additional static mobile home would be for the applicant's Grand Parents. Within the statement they have stated that they will not meet the definition as a gypsy and traveller as defined within the Planning Policy for Traveller Sites (PPTS).
- 5.3 The PPTS definition of gypsies and travellers defines them 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 education or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people living together as such."
- 5.4 The applicant, Caroline Bird lives in the existing static caravan on the site and is part of a long standing local gypsy family. The gypsy status of Ms Bird was discussed at the previous appeal on the site and it was determined that she met the definition as set out in the PPTS.
- 5.5 The proposed extra mobile home on the site would be for her grandparents Mr and Mrs Bird Senior. Mr and Mrs Bird Senior currently live in Thirlby. However Mrs Bird Senior requires full time care and both Mr and Mrs Bird are in their 80's. Mr Bird is unable to provide full time care for his wife. Their grand-daughters, Caroline (the applicant) and Anna Mary, are able to provide care for Mr and Mrs Bird Senior on a full time basis. Where they are currently located in Thirlby there is no room for a carer and Mr and Mrs Bird Senior now require alternative arrangements to cater for their needs. Therefore the applicant is applying for the additional static mobile home on site.
- 5.6 Further clarity has been sought from the applicant's agent with regard to the necessity for the second touring caravan proposed. The following statement has been provided:

"The (static)caravan will be either two or three bedrooms - two reasonable sized ones or one decent and two small but in reality, whichever it is, there is not going to be enough room for Anna Mary to stop without difficulty as an elderly couple will really need all the space a caravan can offer. So whilst she could theoretically stopover in the van it would be awkward and reduce the space available to her grandparents. Moreover, Anna Mary has her own touring van which can be brought to site to be available when needed and when Anna Mary is not using it for travelling.

Just to clarify it is Anna Mary who receives a carers allowance and attends to her grandmother's needs pretty much full time. It will be much easier for Anna Mary to provide that with her grandparents living nearer to her on Caroline's 'pitch' and also

given that Caroline is already resident on site and so able to provide the additional care her grandmother needs when Anna Mary isn't there to provide it. Having someone on hand full time is becoming increasingly important with advancing age. As previously explained, Caroline is on site most of the time but can only offer limited support where her grandparents currently live owing to her own children's needs, notably those of her son who receives a qualifying disability benefit but at least Caroline is in hand when Anna Mary can't be. Caroline's role as both mother and formal carer for her own son make it extremely difficult to offer other than limited support to Anna Mary in carrying out her carer responsibilities.

- 5.7 It is agreed that Mr and Mrs Bird Senior formerly met the definition as a gypsy and traveller. However, due to their age and health conditions they have permanently ceased to travel and therefore no longer meet the government definition of gypsy and travellers.
- 5.8 However, when looking at previous appeal decisions made in regard to this matter it is important to consider the case of Mrs Jean McPhee vs Kings Lynn and West Norfolk Borough Council (APP/V2635/W/17/3180116) which stated that even though the adult daughters on the site did not meet the definition of a gypsy and traveller other members of the family did. It is considered that since it was all one household living on the site it was consistent with the 'Gypsy and Traveller Accommodation Assessment' where it states that "...a household where some family members travel for nomadic purposes on a regular basis, but where other family members stay at home to look after children in education, or other dependents with health problems etc. the household unit would be defined as travelling..."
- 5.9 The Council has also sought advice on this matter from Opinion Research Services (ORS) who prepared the Gypsy and Traveller Accommodation Assessment on behalf of Hambleton District Council. ORS has confirmed that Mr and Mrs Bird senior effectively represent Gypsy and Travellers who are unaccounted for within the survey work carried out owing to their having ceased to travel. As a result their housing needs are not met through either the provision of bricks and mortar housing, nor through the provision of definition compliant Gypsy and Traveller sites. This has previously been identified as a weakness in the Council's assessment of housing needs in the District through the course of recent appeal decisions in the District.
- 5.10 Therefore, in this instance since Caroline Bird and Anne Mary Bird are considered to be travellers meeting the definition, and will be caring for her grandparents who do not meet the definition it is considered they are one household and therefore it is considered to be acceptable for this additional pitch on the site. To ensure that the static mobile home stays within the household it would be reasonable to impose a personal condition on the additional mobile home for just Mr and Mrs Bird Senior and when they cease to occupy the mobile home it should be removed from the site.
- 5.11 In terms of Local Development Framework policy it is important to consider Policy DP14 which sets out criteria for the provision of accommodation that meets the needs of gypsies and travellers. Sites should be the following:
- a) Located within a reasonable distance of services and community facilities within a Service Centre or Service Village – It is considered to be close to both Brompton and Northallerton so as to be within a reasonable distance of community facilities etc.
 - b) Provides an acceptable living environment – It is a site with buildings and services, including a sewage plant, already available and the caravan will be set well back from both the road and adjoining dwelling so will provide an acceptable living environment

- c) Is of an appropriate size – As set out above, the site has all the necessary facilities anticipated as being required by a gypsy family and can readily accommodate a static caravan with room for a tourer on the hardstanding area.
- d) Has a safe and convenient access to the road network – The existing site entrance has good visibility and provides a safe and convenient access onto the highway.
- e) Avoids creating demonstrable harm to the amenity of existing communities and surrounding environment – There is only immediate neighbouring dwelling and others of the existing community at Brompton will not be impacted upon by the proposal. The existing landscaping/planting enhances the setting of the site and helps visually anchor any structures into the landscape so minimising any impacts on the character of the local environment
- f) Is not located on contaminated land – The land is not known to be contaminated and was previously used as market garden/agriculture

5.12 It is therefore considered that the additional static mobile home on the site would meet the requirements of Policy DP14 and the overarching principles of the NPPF subject to other material planning considerations.

Impact on the Character of the Area

5.13 One of Hambleton's strategic planning objectives, set out in The Core Strategy Local Development Document (2007), is "To protect and enhance the historic heritage and the unique character and identity of the towns and villages by ensuring that new developments are appropriate in terms of scale and location in the context of settlement form and character."

5.14 Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and settings, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space.

5.15 The National Planning Policy Framework supports this approach and, at paragraph 64, states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 66 sets an expectation that applicants engage with the local community in drawing up the design of their schemes:

"Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably."

5.16 In the 2016 appeal for the store building located to the south of where the proposed static caravan would be sited it was agreed that the size and scale of the building has an impact on the open character of the area and would be highly visible. However, the need for the building outweighed the harm on the character of the area. The proposed static caravan would be positioned behind an existing hedgerow and behind the building and therefore would not be readily visible from the street. It is therefore considered that the addition of a static caravan on the site would have no impact on the character of the area and would be considered to be in accordance with the Council's Local Development Plan policies.

Impact on neighbouring Residential Amenity

5.17 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.

- 5.18 The proposed static caravan would be sited to the rear of the neighbouring residential property, Rivadoon. The caravan would be 13 metres away from the neighbouring residential boundary and a further 25 metres away from the rear elevation of the dwelling. It is considered that the additional mobile home is a sufficient distance away from the neighbouring residential property and would not affect neighbouring residential amenity. It is therefore considered that the development is in accordance with Policy DP1 of the Local Plan.

Other Matters

- 5.19 Comments have been raised that several families currently occupy the site along with the stable building being converted into a dwelling. This was raised with the Council as an enforcement complaint and was investigated accordingly. From the time of the site visit it was evident that the stable building had not been converted into a dwelling and was still under construction at the time of the visit. This enforcement case was closed. All alleged breaches of planning control on the site would be investigated by the Planning Enforcement Team

Planning Balance

- 5.20 The site has been granted planning permission in the past for a gypsy and traveller site, and the proposal for an extra static caravan on the site is considered acceptable even though the proposed occupiers of the mobile home would not themselves meet the definition of a gypsy and traveller. It is considered that the household as a whole on the site is considered to meet the needs set out in the Gypsy and Travellers Accommodation Assessment. Therefore to ensure that the mobile home remains for the needs of gypsy and travellers a personal condition is recommended to be imposed to ensure that the mobile home is removed from the site when the proposed occupiers cease to occupy the site.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:
1. The land shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (Department for Communities and Local Government August 2015) or any replacement guidance.
 2. There shall be no more than 2 pitches on the land, and on each pitch hereby approved no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) shall be stationed at any time of which only one caravan of which shall be a static caravan.
 3. If within a period of five years from the date of the planting of any tree or hedgerow shrub, that tree or shrub, or any planted in replacement, is removed, uprooted or destroyed or dies or becomes in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.
 4. No means of external illumination shall be installed or constructed on the site unless otherwise approved by the Local Planning Authority.
 5. No commercial activities shall take place on the land, including the storage of materials. No burning materials shall take place on the site.
 6. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

7. The approved static caravan shown on Site Plan as Proposed submitted to the Local Planning Authority on the 4 January 2019 shall not be occupied by any persons other than Roy and Zena Bird, with the proviso that, within 3 months of the date on which they cease (for whatever reason) to permanently live on the site, the use hereby approved shall cease and the static caravan should be removed from the site and the site returned to its condition, prior to the stationing of the caravan.

The reasons are:

1. To ensure that the site is occupied by people meeting the definition as a gypsy and traveller as set out in the PPTS
2. To ensure that is clear on the number of mobile homes which is permitted to be allowed on the site.
3. To ensure that any trees that die or are diseased or replaced with appropriate species to ensure the site is suitable screened and does not affect the character of the area in accordance with Policy CP4 and DP9 of the Local Plan
4. To ensure that no illumination is installed within this countryside location in accordance with Policy CP4 and DP9 of the Local Plan.
5. To ensure that the site is used as a gypsy and traveller site at not as a commercial yard to protect the openness of the countryside in accordance with Policy CP4 and DP9 of the Local Plan
6. To ensure that the site is used as a gypsy and traveller site at not as a commercial yard to protect the openness of the countryside in accordance with Policy CP4 and DP9 of the Local Plan
7. This is to ensure that no future occupiers of the site occupy the mobile home without the Council assessing the needs of any future occupiers on the site in accordance with Policy DP14 and the overarching principles of the PPTS.