

**Parish: Great Busby**  
Ward: Osmotherley & Swainby  
**11**

Committee Date: 23 June 2016  
Officer dealing: Mrs B Robinson  
Target Date: 1 April 2016

**16/00262/FUL**

**Retrospective application for the use of land as a private Gypsy site for one family at Rosie's Ranch, Busby Lane, Great Busby for Mr Jonathan Stephenson**

## **1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 The site is a rural location lying close to the east end of the very small settlement of Great Busby, where there is a collection of buildings and two houses around Busby Grange Farm. The site is fenced from the neighbouring field of which it appears to have previously formed part. It is set back from the road, and accessed by a 60 metre track from a pre-existing access from Busby Lane.
- 1.2 The proposal is a single family Gypsy site. A timber-clad static caravan is in situ together with an area of hardstanding to the front and rear of the caravan, which is also shown on the submitted application.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 15/00273/CAT3 – Enforcement investigation into engineering works; pending consideration. The static caravan was brought onto the site while the works were being investigated and therefore the outcome of this application will determine the next steps with this, and whether enforcement action is instigated.

## **3.0 RELEVANT PLANNING POLICIES**

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Development Policies DP4 - Access for all  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP8 - Type, size and tenure of housing  
Development Policies DP14 - Gypsies and Travellers' sites  
Core Strategy Policy CP21 - Safe response to natural and other forces  
Development Policies DP43 - Flooding and floodplains  
National Planning Policy Framework  
Planning Policy for Traveller Sites (August 2015)

## **4.0 CONSULTATIONS**

- 4.1 Public comments - Eight objections have been received to the proposed development for the reasons summarised below:

- The applicant has no right of access;
- The applicant cannot demonstrate a suitable or safe vehicular access to the site;
- The application site is not in the ownership of the applicant and as such the application is not valid;

- There are vacancies at the Seamer site and as such there is no need for this development;
- No exceptional case has been made for the development;
- The development has a harmful impact on the character of the countryside;
- The site is not suitable for domestic accommodation being close to dangerous buildings;
- The development will result in harmful impact on road safety;
- Development is not in keeping with the village context;
- No identified need for additional Gypsy or Traveller sites;
- The development is prominent in open countryside;
- The wider site should be redeveloped for housing; and
- There are no significant amenities in the vicinity.

#### 4.2 Great Busby Parish Meeting - Objects for the following reasons:

1. The field entrance which is used by the Gypsy site has poor visibility, being on a bend with high hedges and fencing on either side. Vehicles using the entrance pose a danger to other traffic and the many cyclists, runners and horse riders who pass through Busby. The land on either side is not owned by Mr Stephenson so it is unlikely to be possible to provide visibility splays. The Gypsy site brings mud onto the road and increases the risk of a serious traffic accident on this stretch of Busby Lane which narrows shortly beyond the field entrance to cross the bridge at Grange Beck.
2. The large wooden chalet, touring caravans and vehicles at the site are ugly and very prominent, particularly when seen from the lane leading up to Busby. The development is out of keeping and spoils the character of the village and its surrounding countryside.
3. There is already a proliferation of caravans around the edge of Busby, particularly in the summer months, with the large certificated site at Elhams Market Garden, the smaller one at Southview Farm and individual caravans/statics at Busby Stables and Waterbeck Stables. The nature and character of the village is being spoilt by the number of caravans (not all authorised) which far exceed the number of permanent residential buildings. Additional caravans at the Gypsy site only add to this problem.
4. The Parish Meeting had been told about the Council's Traveller Housing Needs Study (2014 Update) and this says that there is no need for further Gypsy and Traveller sites between 2014 and 2019. The Meeting understands that there are vacancies at the Seamer site which is near to Stokesley.
5. The site is not within 1 mile of shops and services as recommended for Gypsy and Traveller sites in the Council's study. The nearest facilities in Stokesley and Great Broughton are both about 2 miles away.
6. The site is close to run-down and derelict buildings – which include old asbestos sheeting - at Busby Grange. This is not a suitable location for a family with children.
7. Residents object to the fact that this is a retrospective application and that the Stephenson's have set up the Gypsy site without paying any regard to the proper planning procedures. Approving the application will simply encourage more such cases in the area.

4.3 Kirkby Parish Council – Objects for the following reasons.

1. This application requests change of use of agricultural land to domestic for the use of land as a private Gypsy site for one family, and this use has already commenced.
2. This site is not needed as there are 3 pitches available on the site at Seamer, closer to the facilities and family in Stokesley.
3. There is no need for the change of use of good agricultural land for a private Gypsy site until these pitches are occupied.
4. If this application is granted it will encourage other individuals to purchase agricultural land and then commence inappropriate works or use of the land, as is happening almost adjacent to this site in the parish of Kirkby-in-Cleveland, ref. Planning Appn. No. 16/00108/FUL, where hedges have been illegally removed and works commenced prior to planning permission being granted.
5. If Hambleton District Council approves this planning application a precedent will be set and it will be extremely difficult for them to control the development of individual private Gypsy sites and other unauthorised change of use/work on plots of land without planning permission all across their planning jurisdiction.

4.4 Highway Authority – advice awaited.

**5.0 OBSERVATIONS**

- 5.1 The first issue to be considered is whether the applicant meets the Government's definition of a Gypsy or Traveller for planning purposes. If they do, it would then be necessary to consider whether there is currently a need for additional Gypsy or Traveller pitches within the District.
- 5.2 If the applicant does not meet the Government's definition a second consideration as to whether the proposal can draw support from any other Development Plan policy or from national planning policy must be made.
- 5.3 In addition it is necessary to consider the suitability of the access to the site.

The applicant's status as a Gypsy or Traveller

- 5.4 The 2015 Planning Policy for Traveller Sites defines gypsies and Travellers 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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."
- 5.5 It is therefore necessary to consider whether an applicant currently leads a nomadic life, including the reasons for travel. If they previously lead a nomadic life but have ceased to travel temporarily, their reasons for ceasing and whether they intend to resume a nomadic life are relevant considerations. Reasons for ceasing temporarily to travel are limited to their own or family or dependants' education and health needs or old age.
- 5.6 With regard to "nomadic habit of life", the application states the applicant is of Gypsy status and has been accepted as such in the course of previous planning

applications. The family includes a child with special needs and the application indicates this is the reason the applicant is not travelling for work purposes.

- 5.7 The agent for the application has made reference to consideration of the applicant's status in appeals relating to a site he occupied outside Stokesley. The applicant's personal circumstances were then summarised by the Inspector, who noted: "The appellant and his wife have five children and are settled as part of the local community. Of particular concern is Millie, a daughter aged seven years, who suffers from Down's Syndrome. I heard evidence at the hearing as to the potential disruption for Millie of having to move home, and written representations were received from Millie's school, where her mother also works, and from other supporting services."
- 5.8 The agent also notes that the appeal decision for that site included the following commentary on the applicant's status: "The Council does not dispute the Gypsy status of the appellant and other proposed occupants, and I am satisfied from the information before me that all would fall within this definition."
- 5.9 However, it is important to note that the appeal decision pre-dated the revised definition of gypsies and Travellers in the updated Planning Policy for Traveller Sites on 31 August 2015. This is of particular significance because the revised definition turns on whether the head of the household travels for work and people who have stopped travelling permanently for work purposes do not meet the definition. For this reason the agent had been invited to submit evidence in response to 12 questions, including details of travel for work purposes over the previous 10 years.
- 5.10 The questions have not been answered directly and as indicated above, the applicant relies on statements from before the definition changed. The agent has supplemented this by stating "The needs of Millie have resulted in the family being unable to travel together for much of the time and Mr Stephenson's responsibilities do mean that he tries to stay based and working relatively locally to avoid most travelling at this point in their family life so as to help provide the necessary care for Millie. This site is well positioned for easy access to Stokesley and other family members who provide support."
- 5.11 Taking all of the foregoing into consideration it has not been demonstrated that the applicant meets the planning definition of a Gypsy or Traveller and on this basis the site is not a justified exception to the strong presumption against new development in the countryside.

#### The need for additional Gypsy or Traveller pitches

- 5.12 The conclusion on the first issue above indicates that this issue does not need to be considered. However, for completeness it is pertinent to note that Traveller Housing Needs Studies were carried out in Hambleton in 2012 and 2014 and a further Study is nearing completion. The latest evidence, including the findings of 30 household interviews and an assessment against the Government definition of a Traveller, is that one additional pitch will be needed in Hambleton between 2021 and 2031 for the six Gypsy and Traveller households who meet the definition. This takes into account supply from a pitch due to become vacant. The evidence confirms that no new pitches are required before 2021.
- 5.13 The Study indicates that two additional pitches may be required to meet the needs of new household formation for families where it was not possible to establish the Traveller status of occupiers. However it is not considered necessary to plan for this now because it would first be necessary to establish whether the families in question meet the definition. This is a matter to be progressed through the Local Plan in the first instance.

- 5.14 Overall therefore, this site is not considered necessary to meet the needs of gypsies and Travellers at this time.
- 5.15 Taking into account that it has not been demonstrated that applicant does not meet the planning definition of Gypsy and Traveller, and that the site is not necessary to meet the needs of Gypsy and Travellers at this time, further consideration of the Council's detailed policy in relation to Gypsy and Traveller sites, principally DP14, is not necessary in this case.

Whether the proposal can draw support from any other Development Plan policy or from national planning policy

- 5.16 Policy CP4 includes six criteria which may allow development outside sustainable settlements in exceptional cases, including where it is necessary to meet an essential rural need to locate in the countryside, or for affordable housing where the need cannot be met in a settlement within the settlement hierarchy. The applicant has not claimed any of the exceptions listed in policy CP4 and no evidence has been submitted to justify a location in the countryside.
- 5.17 NPPF paragraph 55 states that Local Planning Authorities should avoid isolated new homes in the countryside unless there are special circumstances and identifies four such circumstances. Three of these broadly follow the criteria of CP4 and are therefore not met. The fourth NPPF consideration, exceptional quality or innovative nature of the design of a dwelling, is neither claimed nor achieved.

Access

- 5.18 The site utilises an existing access, and the views of the Highway Authority will be reported when available. Whilst the applicant's right of access to the site has been challenged, he has signed the appropriate certificate of ownership for the application site, including the access to Busby Lane, and no evidence has been submitted to contradict this.

## **6.0 RECOMMENDATION**

- 6.1 That subject to any outstanding consultations the application is **REFUSED** for the following reasons:
1. The applicant is not considered to be a person of nomadic habit of life as set out in Planning Policy for Traveller sites 2015 and thus cannot benefit from the provisions of Policy CP8 and DP14 in relation to provision of the accommodation that meets the needs of gypsies and Travellers.
  2. The Hambleton District Council Traveller Housing Needs Study, as updated June 2016, and taking into account the provisions of Planning Policy for Traveller Sites 2015, confirms that there is no current shortage in the supply of Traveller pitches to meet local need. Therefore this site is not essential to the provision of Traveller and Gypsy sites in Hambleton and no exception to Development Plan or national policy is justified.