

Parish: Skutterskelfe
Ward: Hutton Rudby
7

Committee date: 26 August 2021
Officer dealing: A O'Driscoll
Target date: 9 March 2021

21/00078/MRC

Application for variation of condition 4 (caravan numbers - to increase the caravan numbers from 2 to 5) to application 16/00522/FUL for Change of use of land to a private gypsy site and new access and the siting of a caravan and tourer (granted on appeal reference APP/G2713/W/16/3165207)

**At Oakwood Farm, Tame Bridge, Stokesley
For Mr R Adams**

This application is referred to Planning Committee as the proposed development is a departure from the Development Plan.

1.0 Site, context and proposal

- 1.1 The application site is located on the southern side of the Stokesley to Hutton Rudby Road, west of the small settlement of Tame Bridge. The wider site comprises a single family traveller plot, with an access off the main road through an established tree belt. The use of the land as a traveller site, including static and touring caravans, stables and amenity building, was approved at appeal. The remaining part of the site was approved as part of the appeal as paddock for grazing of horses/animals. Subsequent applications for a storage building, garage and kennels have also been approved.
- 1.2 This application is to vary condition 4 of the Inspectors decision which states: 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 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 1.3 The reasoning for the condition is given as follows: A condition specifying the maximum number of caravans on the site is necessary to limit the scale of the development. Whilst I note the appellant's concerns in relation to the tourer, a condition to ensure the siting of both the caravans as shown on the approved plans is required to ensure that they are located on the hardstanding on the northern part of the site in the interests of the character and appearance of the area.

2.0 Relevant planning and enforcement history

- 2.1 16/00522/FUL - Change of use of land to a private gypsy site and new access and the siting of a caravan and tourer – Refused and Allowed at Appeal.
- 2.2 17/02320/FUL - Construction of a stable block - Refused and Allowed at Appeal.
- 2.3 17/02436/FUL - Construction of an amenity building for private gypsy site - Refused and Allowed at Appeal.

- 2.4 19/01826/FUL - Retrospective application for the construction of a general purpose storage building in association with gypsy site for general storage purposes/machinery & hay/horse feed – Granted
- 2.5 20/01095/FUL - Proposed domestic dog kennel and domestic vehicle garage - Granted

3.0 Relevant planning policies

- 3.1 The relevant policies are:

Hambleton Emerging Local Plan

The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF. The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

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 DP3 - Site accessibility

Development Policies DP4 - Access for all

Development Policies DP8 - Development Limits

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 DP31 - Protecting natural resources: biodiversity/nature conservation

Development Policies DP32 - General design

Development Policies DP33 - Landscaping

Gypsy and Traveller Accommodation Assessment 2008

Planning for traveller sites: consultation - 13 April 2011

National Planning Policy Framework

4.0 Consultations

- 4.1 Parish Council –

Seamer Parish Council raised the following issues:

- Incremental growth of traveller/gypsy sites leading to urbanisation of the countryside that would otherwise be unacceptable
- Other sites in the area have vacancies
- Flooding issues
- Existing sewerage system overflows onto neighbouring land
- Landscaping issues

- Evidence of need is lacking

Rudby Parish Council made two representations raising the following issues:

Initial comments

- Site visible from public right of way
- There are 3 other private gypsy sites within 800m
- Due to subsequent approvals that site is having a greater impact on the landscape than anticipated by the Inspector
- Increased pressure on services at the site
- The cumulative development is more accommodation than is required
- Gypsy and Traveller Accommodation Assessment is not relevant to the applicant's children as they are dependant
- Gypsy status and medical needs of new residents at the site should be evidenced
- Harm to the character of the area
- Site would be much larger than nearby private sites
- Harm to local amenity
- Proposal is based on Local Plan evidence that has not been through public examination and extension based on this evidence would risk a flawed decision

Comments following publication of Pitch Deliverability Assessment

- The Deliverability Assessment indicates that due to existing development at the site there is no capacity to add pitches
- The Assessment gives weight to the Inspectors opinion that development should be restricted to the northern part of the site
- The paddock should remain undeveloped

4.2 Highway Authority – No objection

4.3 Public comments – Two letters of representation were received raising the following issues:

- Large concentration of sites in this area
- There are vacancies at other sites
- Issues with the existing sewerage system would be exacerbated
- Potential noise issues
- Request for increased/additional landscaping/screening

5.0 Analysis

5.1 The issues for consideration in this case relate to the rewording of the condition to allow for additional accommodation for the applicant's dependant children and parents in-law. As any variation of the condition will create a new standalone permission the following main issues have been identified.

i) The principle of development in this location; ii) Gypsy and Traveller Accommodation Assessment; iii) The status and needs of those to be accommodated; iv) Best interests of the child; v) Impact on the character of the area; vi) Amenity and; vii) Highways safety

The principle of development in this location

- 5.2 The original permission granted by the Inspector provides for a single private pitch. The red edge on that permission encompasses the whole site including the paddock to the south. The Inspector imposed conditions on the number and siting of caravans to be in accordance with the approved site plan. The Inspector also mentions in their report that the conditions were imposed to ensure that the development was confined to the existing hard standing in the interest of limiting the impact on the character of the area.
- 5.3 The area of land to which the current application relates is within the original red edge. As the Inspector did not specifically limit development to the northern part of the site it is considered that the application to increase the number of caravans at the site is valid and not precluded through the addition of land outside of the approved site. The intentions of the Inspector in limiting harm are noted, however, there appears to be no technical reason why additional accommodation could not be considered within the wider site subject to the proper assessment. Indeed, subsequent appeals allowed additional buildings on the western side of the site which was outside of the original hardstanding area but within the original red edge.
- 5.4 In this case therefore it is considered that the principle of development at this site is acceptable.

Gypsy and Traveller Accommodation Assessment

- 5.5 The Gypsy and Traveller Accommodation Assessment January 2021 (GTAA) identifies a need for 65 pitches for households that met the planning definition for the period 2020-2035. 47 of these are required before 2024. The GTAA also suggests that 44 out of the 47 pitches required by 2024 could be provided through the intensification or expansion of existing sites.
- 5.6 The Inspectors letter on Gypsy and Traveller Accommodation indicates that “to be considered deliverable, sites should be available now, offer a suitable location for development and be achievable with a realistic prospect that development will be delivered within five years. At this stage, it is uncertain whether the sites requiring expansion or intensification will come forward, or, that planning permission will be granted having regard to site constraints and other Local Plan policies”.
- 5.7 The GTAA goes on to state that “there is a need for 9 pitches for households that did not meet the planning definition. This is made up of 2 concealed or doubled-up households or single adults; 4 teenagers in need of a pitch of their own in the next 5 years; and 5 from new household formation. This is offset by 2 vacant pitches on public sites in Hambleton to meet the need identified from public sites”.
- 5.8 The applicant claims that the need for additional caravans arises from overcrowding of existing accommodation and a further need to accommodate his parents in-law, one of whom is, amongst other health issues, in the early stages of a long term debilitating illness and requires care. The applicant also wishes to accommodate his brother and his family within the site.

- 5.9 The applicant states that the existing static caravan has two bedrooms which houses himself, his wife and 4 children. Two of the children are over the age of ten with mixed genders sharing a bedroom. His parents in-law were previously living on a site within the district, however, the facilities were poor with electricity limited to certain hours of the day and no washing facilities.
- 5.10 A Pitch Deliverability Assessment (PDA) was published in February 2021. This report provides an assessment of 26 sites and yards within the district with the aim of providing advice on the suitability, availability and achievability of existing Gypsy and Traveller sites to meet a proportion of the identified needs outlined in the GTAA. The application site was assessed on this basis and found that the site could accommodate an additional pitch. Weight was given, however, to the comments of the Inspector on the original permission which indicated that development should be confined to the existing hard standing.
- 5.11 As mentioned above, however, there is no technical reason why additional caravans could not be sited within the paddock subject to assessment of the harm to the character of the area. Despite concerns around the Inspectors inferred desire to confine development to the north the site was still included in the results of the PDA as capable of accommodating an additional pitch.
- 5.12 The PDA also refers to the future need of the applicant's children. However, it should be noted that the GTAA appears to include the needs of teenagers coming of age in the next 5 years in the numbers relating to the need of those who do not meet the planning definition of a Gypsy or Traveller. It is suggested therefore that the needs of the applicant's eldest child may not be included in the GTAA figure of 65.

The status and needs of those to be accommodated

- 5.13 The children currently fall under their Fathers status as a gypsy being dependent minors. Evidence of the eldest child's work history has been provided as proof that he has already begun his career and will soon be able to show his status (in planning terms) as a gypsy when he comes of age in 2-3 years. Anecdotal evidence has been provided regarding the parents status and health records have been provided to evidence the applicants arguments that previous sites were unsuitable and that long term care will be required.
- 5.14 Whilst the above evidence has been provided if the application were to be granted the Inspectors other conditions would still be relevant. Condition 3 states: "The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy)". If the number of caravans were to be increased then the occupants would still need to comply with this condition.

Best Interest of the Child

- 5.15 Article 3, paragraph 1, of the Convention on the Rights of the Child gives the child the right to have his or her best interests assessed and taken into account as a primary consideration in all actions or decisions that concern him or her, both in the public and private sphere. One of the four general principles of the Convention for interpreting and implementing all the rights of the child states that it is a dynamic

concept that requires an assessment appropriate to the specific context. The concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights recognized in the Convention and the holistic development of the child. It is considered that in order for a Planning Decision, to be in conformity with the Convention on the Rights of the Child, due consideration should be given to whether or not the best interests of the child have been considered in the determination of the application.

- 5.16 In this case it is considered that the planning system has some role to play in this regard. Part of the application is to provide additional accommodation for children who are currently all sharing a bedroom despite two of them being over the age of ten and of different genders. Taking into account the existing facilities at the site the Council should give some weight to benefits of providing additional accommodation for these children to have the required space and privacy appropriate to their ages.

Impact on the character of the area

- 5.17 Core Strategy policy CP16 supports developments where they preserve and enhance the district's natural and manmade assets. LDF Policy DP14 criterion (v) states that sites should avoid creating demonstrable harm to the amenity of existing communities, or to the natural, archaeological and historic environment, including wildlife sites and any trees and woodland in the area, and provide mitigating measures (for example landscaping) where necessary. LDF Policy DP30 seeks to protect the character and appearance of the countryside and states that the openness, intrinsic character and quality of the district's landscape will be respected and where possible enhanced.
- 5.18 The Inspectors report relating to the original permission indicated that the site related closely to the surrounding countryside and "in this immediate context the proposal would lead to an intrusion of residential development into the countryside which along with the associated domestic paraphernalia, parking of vehicles and residential activities would inevitably change the current rural character of the site".
- 5.19 Since the original permission and subsequent permissions for a storage building, amenity building, stables, garage and kennels the site has significantly changed. The siting of these buildings has, however, taken into account views through the site from the main road to the open countryside beyond. This application will see further intensification of use on the site and siting of caravans in a position visible from the main road. Although the development would be viewed from the south in the context of the existing structures the presence of the additional caravans will be felt when viewed from the north. It is considered therefore that the proposal would result in some harm to the character of the area and this would weigh against the proposals.

Amenity

- 5.20 The Planning Policy for Traveller sites 2015 indicates that one of the Government's aims is to ensure that Local Authorities give due regard to local amenity and environment. In this case the application site is over 150m from the nearest dwelling, Briar Cottage to the east.

- 5.21 Concerns have been raised regarding the potential for noise issues at the site. The site history indicates that no noise complaints have so far been received in relation to the occupation of this site. Given the private residential nature of the site it is not considered reasonable to assume that the provision of 3 additional caravans to house dependant children already living on the site and wider family would give rise to noise issues that would warrant a refusal of planning permission. It is not considered necessary to impose any additional conditions in this regard.
- 5.22 The site plan submitted with the application indicates that the existing area of green space on the northern portion of the site would be retained. It is considered therefore that the site would maintain an acceptable level of amenity for existing and future occupiers. The proposed development is considered to comply with the requirements of policy DP1.

Highways Safety

- 5.23 Some concerns have been raised with regard to the impact of intensification on highways safety. North Yorkshire County Council Highways Officers raised no objections to the application. It is therefore considered that the proposal would not result in a detrimental impact on highways safety.

Planning Balance

- 5.24 It is clear from the above that great effort has been made by all parties to limit the harm of this development to the landscape and open countryside. This is evidenced by the siting of ancillary buildings and landscaping of the site. It is also clear that this proposal takes that further step into the open countryside which has so far been avoided. It must be considered, however, that the harm to the character of the open countryside must be balanced against the needs of the applicant, his children and wider district. In light of the pressing need for additional pitches in the short term up to 2024 and the benefits of providing additional accommodation for the family and aging parents it is considered that the identified needs outweigh the harm in this case.
- 5.25 It is therefore recommended that condition 4 be amended from
“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 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time”.

To

“No more than 5 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (either static caravan or mobile/touring home) shall be stationed on the site at any time”.

- 5.26 It is also recommended that conditions 2 and 5 be updated with new plans

6.0 Recommendation

6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: HN/15/024/001 Location Plan, HN/15/024/002 Existing Site Plan, Proposed Site Plan and Visibility Splays.
3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
4. No more than 5 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (either static caravan or mobile/touring home) shall be stationed on the site at any time.
5. The caravans shall be sited in accordance with Proposed Site Plan and Visibility Splays.
6. No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of the type, height, species and location of all new trees and shrubs. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the site or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. The site shall not be occupied until a means of access has been constructed in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The access shall be retained thereafter.
8. The site shall not be occupied until space has been laid out within the site in accordance with drawing no. HN/15/024/003 Proposed Site Plan and Visibility Splays for vehicular access to the site and vehicles to be parked and to turn so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for those purposes.
9. Prior to the first use of the access hereby permitted, visibility splays with an 'x' distance of 2.4 metres and a 'y' distance of 215 metres to the west, and 160 metres to the east, measured from the centre of the access, shall be provided and thereafter maintained. No structure, erection, trees or shrubs exceeding 1.05 metres in height shall be placed, allowed to grow or be maintained within the visibility splays so defined.

10. No commercial activities shall take place on the land, including the storage of materials.
11. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site unless otherwise approved in writing by the Local Planning Authority.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) .
3. The location of the site is such that adopted policy is not otherwise supportive of permanent dwellings.
4. In order to control the scale of the development and to protect the character and appearance of the area and to comply with DP30.
5. In order to limit the impact on landscape character and comply with DP30 and DP32.
6. In order to protect the landscape character of the area and comply with DP30 and DP32.
7. In order that a proper form of access is created and to protect the safety and amenity of road users.
8. In the interests of road safety and to comply with DP1 and DP3.
9. In the interests of road safety and DP3.
10. In the interests of the amenity and character of the area and to comply with DP1 and DP30.
11. In the interests of the amenity and character of the area and to comply with DP1 and DP30.
12. In order to ensure that the scale and form of development on the site does not result in a harmful impact on the character or amenity of the area and to comply with DP1, DP30 and DP32.