



Planning Committee

14 February 2019

Planning Appeals

Report of the Executive Manager – Communities

LOCATION	Field On Flintham Lane Screveton Nottinghamshire	
APPLICATION REFERENCE	18/00030/FUL	
APPEAL REFERENCE	APP/P3040/W/18/3197466	
PROPOSAL	Material change of use of land for stationing of caravans for residential occupation with associated hard standing, internal access road, fencing, package treatment plant, utility buildings and additional landscaping	
APPEAL DECISION	Appeal Allowed	DATE 17th December 2018

PLANNING OFFICERS OBSERVATIONS

The application was partly retrospective, and permission was refused on grounds summarised as follows:

- The provision of Gypsy Traveller sites within the Open Countryside is contrary to the Government's "Planning Policy for Traveller Sites" which states that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. It is not one of the forms of development identified as appropriate within the Policy EN20 (Protection of Open Countryside) of the Rushcliffe Borough Replacement Non Statutory Local Plan, and is contrary to Policy 9 (Gypsies, Travellers and Travelling Showpeople) of the Rushcliffe Local Plan Part 1: Core Strategy.
- The provision of 6 pitches in this location delivers Gypsy/Traveller accommodation in excess of any unmet need within the Borough. Policy 9 of the Core Strategy states that, as part of creating sustainable and mixed communities, where there is an identified need provision should be made within existing settlements or as part of Sustainable Urban Extensions. This need has been met and consequently, the proposed development is contrary to the broader sustainability objectives of the Core Strategy, and the National Planning Policy Framework.

The appeals were against the refusal of planning permission and two enforcement notices. An informal hearing took place on 13 November 2018 and the inspector considered the main issues to be:

- Whether the proposed occupiers are gypsies and travellers, as defined in the Planning Policy for Traveller Sites (PPTS);

- Whether the principle of gypsy and traveller site development in this location is acceptable;
- The effect of the development on the character and appearance of the area;
- Whether the occupiers of the site would have reasonable access to/be within reasonable travelling distance of services and facilities without undue reliance on motor vehicles;
- The impact of the development on the nearest settled community and local infrastructure and the potential for peaceful co-existence;
- The need for gypsy and traveller sites locally and whether the Council can demonstrate a 5 year supply of deliverable new sites;
- If the development does not comply with policy, the weight to be attached to the personal circumstances of the proposed occupiers and the availability of alternative accommodation, having regard to Human Rights and the best interests of the children and the Public Sector Equality Duty;
- The overall planning balance, with regard to whether permission could be granted on a permanent or temporary basis.

The inspector noted that the Council had not disputed the occupiers' gypsy/traveller status. With respect to details of travelling in connection with employment, he commented that there is a clear economic purpose to the occupier's nomadism, and he was satisfied that they are gypsies and travellers for the purposes of the PPTS. The inspector also appeared to accept that the principle of a gypsy/traveller site in this location.

He considered that the development would introduce an 'uncharacteristically urban, albeit low-level' form of development across the full width and depth of the site, failing to conserve permanent pasture. Having regard to the limited views of the development and the scope for 'enhanced and sympathetic landscaping' along the northern site boundary, he considered it is likely that the development would constitute a 'moderately detrimental visual intrusion into the countryside setting', and concluded that there would be 'moderate harm to the character and appearance of the area'.

He concluded that, having particular regard to the importance of primary school provision, the site is within reasonable travelling distance of a settlement, and that occupiers would have reasonable access to services and facilities without undue reliance on the private car.

Due to the scale of the development, he considered that it would not dominate Sceveton which has no significant infrastructure which would be put under pressure.

The inspector noted that the Council has resolved to grant outline permission for a sustainable urban extension (SUE) at land south of Clifton which includes provision for 4 gypsy/traveller pitches, and that, together with sites at Radcliffe on Trent and Stragglethorpe, the Council maintained that it has a 5 year supply of sites. The inspector noted that the 2016 South Nottinghamshire Gypsy Traveller Accommodation Assessment, which identifies a requirement for 4 new pitches in Rushcliffe between 2014-2029, has not been tested at examination, and was criticised by the inspector who determined the Stragglethorpe appeal. He was therefore not satisfied that it represents a robust evidence base required by the Core Strategy of PPTS. As the SUE at Clifton has not yet been granted permission, he was not confident that it would contribute to the supply of pitches over the next 5 years. In accordance with the PPTS, the absence of an up to date 5 year supply of deliverable sites is a significant material consideration in applications for temporary permission, and he considered that this carried moderate weight in this appeal.

He noted that there were 7 children on the site who have settled into the local primary school and referred to personal circumstances of some of the occupants. In the context of human rights, the best interests of the children and the Public Sector Equality Duty, he considered all the personal circumstances weighed heavily in favour of the appeal.

Notwithstanding conflict with the development plan, he concluded that other considerations indicate that the appeal should be allowed and a personal permission be granted.

Following discussion at the hearing, the inspector corrected and varied the wording of the enforcement notices, and dismissed the enforcement notice appeals. However, the decision on the appeal against the refusal of planning permission overrides the decisions on the enforcement notice appeals.

At the hearing an application for costs was made by the appellants against the Borough Council in relation to the appeal against the refusal of planning permission. The grounds for the application were as follows:

- The Council prevented development that should clearly have been permitted having regard to development plan policies and it failed to substantiate the reason for refusal;
- The Council prevented development that should clearly have been permitted having regard to other material considerations including national planning policy set out in Planning Policy for Traveller Sites, legal judgements and relevant appeal decisions;
- The Council failed to consider how its concerns could be addressed by conditions and misunderstood how a temporary consent could be applicable.

The inspector agreed with the appellants that the Council could not demonstrate that it had made a robust assessment of need, and that it did not adequately respond to the previous Inspector's criticisms of the GTAA, or the relevance of the permissions concerning the Cedar Lodge site and Stragglethorpe sites. Furthermore, the Council placed significant reliance on the Clifton Sustainable Urban Extension site. However, given that: permission has still not been granted for that development; the evidence provides no firm indication that it is likely contribute to the supply within the next 5 years; and, even if it does, it will not be sufficient to meet the appellants' needs, it was unreasonable of the Council to advance the case that it did on need and supply. The inspector considered that this unreasonable behaviour would not justify a full award because, even if the Council had not put forward evidence in relation to need and supply, that would not necessarily have meant that planning permission had to be granted. However, the applicants did incur unnecessary expense in addressing these points and about 45 minutes of hearing time was spent on these matters. A partial award of costs was therefore justified.