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## Appeal Decisions

Hearing held on 22 October 2014

Site visit made on 22 October 2014

**by Philip Major BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 November 2014**

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### **APPEAL A**

**Appeal Ref: APP/H0738/A/14/2219596**

**Highbridge Paddock, Urlay Nook Road, Eaglescliffe, Stockton-on-Tees TS16 0QB.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Lee McStravick against the decision of Stockton-on-Tees Borough Council.
  - The application Ref: 13/2588/VARY, dated 11 October 2013, was refused by notice dated 11 December 2013.
  - The application sought planning permission for the provision of 2No caravans linked to private stables with associated hardstanding; addition of PV panel on the rear roof slope of the existing stable block; erection of new walls and fencing within the site; provision for decking around the caravan; shed and CCTV cameras on the fence, without complying with a condition attached to planning permission Ref: 11/1923/FUL, dated 11 November 2011.
  - The condition in dispute is No 4 which states that: *The use of the land for the siting or residential caravans shall be solely for the benefit of Mr Lee McStravick and his dependents living with him and on cessation of Mr Lee McStravick's interest in the land the use hereby permitted for the siting of two caravans shall cease and within one month of that said interest ceasing to exist all caravans shall be removed from the land.*
  - The reason given for the condition is: *The site is in an unsustainable location for residential Class C3 and the siting of residential caravans is only justified on the needs of the applicant as a member of the travelling community.*
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### **APPEAL B**

**Appeal Ref: APP/H0738/A/14/2219674**

**Highbridge Paddock, Urlay Nook Road, Eaglescliffe, Stockton-on-Tees TS16 0QB.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Lee McStravick against Stockton-on-Tees Borough Council.
  - The application Ref: 14/0193/FUL, is dated 27 January 2014.
  - The development proposed is an additional private gypsy pitch to accommodate 1 static caravan, 1 touring caravan, parking spaces, amenity block and associated infrastructure.
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## **Preliminary Matters**

1. There is no disagreement between the Council and the Mr McStravick that he enjoys Gypsy status, as was the position when caravans were first permitted on this site. I have no reason to dispute that situation.
2. There are some common features in these appeals relating to the sustainability or otherwise of the site, and the matter of the wider need and provision of Gypsy and Traveller sites. I deal with these common elements first, before turning to the individual matters in each appeal.
3. The principle of development of Appeal B was discussed at the hearing but there was no suggestion that if the appeal is successful the small amenity room proposed would be unacceptable. I agree with that assessment and do not need to assess that point in greater detail.

## **Decisions**

4. **APPEAL A** - The appeal is allowed and planning permission is granted for the provision of 2 No caravans linked to private stables with associated hardstanding; addition of PV panel on the rear roof slope of the existing stable block; erection of new walls and fencing within the site; provision for decking around the caravan; shed and CCTV cameras on the fence at Highbridge Paddock, Urlay Nook Road, Eaglescliffe, Stockton-on-Tees TS16 0QB in accordance with the application Ref: 13/2588/VARY dated 11 October 2013, without compliance with condition number 4 previously imposed on planning permission Ref: 11/1923/FUL dated 11 November 2011 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new condition set out in the schedule attached to this decision.
5. **APPEAL B** - The appeal is allowed and planning permission is granted for an additional private gypsy pitch to accommodate 1 static caravan, 1 touring caravan, parking spaces, amenity block and associated infrastructure at Highbridge Paddock, Urlay Nook Road, Eaglescliffe, Stockton-on-Tees TS16 0QB in accordance with the terms of the application, Ref: 14/0193/FUL, dated 27 January 2014, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

## **Applications for costs**

6. At the Hearing applications for costs were made by Mr Lee Mc Stravick against Stockton-on-Tees Borough Council. These applications are the subject of separate decisions.

## **Main Issues**

7. The main issues in the appeals are:
  - (a) The need for and provision of Gypsy Sites in the Borough;
  - (b) Whether the appeal site is sustainable having regard to the advice in the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) on the 3 strands of sustainability;
  - (c) Whether the proposals would accord with the development plan;
  - (d) Whether the disputed condition is reasonable and necessary (Appeal A);
  - (e) The Planning Balance.

## **Reasons**

### ***Need and Provision***

8. I can deal with this matter quickly. The Council acknowledges that there is an unmet need for Gypsy pitches in the Borough and the wider area. It has recently abandoned work on a new development plan document which would have sought to address the matter, and it is now unlikely that any formal document will be able to give future clarity for at least 2 years or so.
9. It does not matter much whether the 5 year requirement is about 12 pitches or (as suggested by the Appellant) about 20 pitches. In either case the lack of a 5 year supply of deliverable sites is a significant material consideration. I do not have any information on whether need is likely to be spread between surrounding local authorities, but it seems unlikely that the established and immediate need would not result in some provision within Stockton-on-Tees.
10. The appeal site would, if the disputed condition were to be removed and the second pitch approved, go some way to meeting the current need. That is a consideration of substantial weight in the planning balance.
11. It is worth pointing out here that the granting of planning permission would relate principally to the use of land for the stationing of caravans, and not to operational development for the provision of a dwellinghouse or dwellinghouses. The Council's submissions that a C3 use would be created are not, in my view, correct.

### ***Sustainability***

12. Sustainability has 3 strands as outlined in the NPPF and PPTS. These are social, environmental, and economic. It is common ground between the parties that the appeal site is some 2.6km from the nearest services. There is now no bus service local to the site and there are no roadside footpaths between the appeal site and the nearest built up area.
13. However, it was agreed at the hearing that the appeal site performs a social role in providing a base for Mr McStravick's family. It would also do so for the occupants of the second pitch. In light of the shortfall in provision this social role is an important consideration.
14. Economically the existing site is a base for Mr McStravick, and the second pitch would have the same role for its occupants. The current intended occupant (though the application and appeal are promoted by Mr McStravick) also provided some evidence of his Gypsy credentials and his travelling lifestyle. As such both pitches, if approved, would be likely to provide an economic role, though this is less easy to assess.
15. The third strand of sustainability – environmental- is also important. The occupation of the existing pitch has a limited impact on the environment. As I indicated in the previous appeal decisions relating to this site (APP/H0738/A/12/2187534) the surrounding area is a pleasant and relatively unspoilt agricultural landscape. The caravans currently existing play little part in the overall impact of development on site. The principal impact results from the permanent stables and other structures, and that is an important fallback position.

16. The proposed additional pitch would be tucked into the corner of the wider site, screened by the existing fencing, and with a backdrop of trees and embankment. Further landscaping could be introduced and secured by condition. In my judgement an additional Gypsy site here would have limited visual impact. There would be greater activity, and some domestic paraphernalia. But the relative seclusion of the site would result in it being assimilated successfully into the landscape. The proposal is very different from that considered in the previous appeal, with very different considerations and evidence in play. The 2 cases are therefore not comparable.
17. Additionally, the consideration of suitable locations for Gypsy sites clearly includes locations in rural areas, as acknowledged in PPTS paragraph 12, and it is not disputed that the appeal site does not, (and would not with a second pitch) dominate the nearest settled community.
18. PPTS does also indicate that Gypsy sites in open countryside, away from existing settlements, should be strictly limited. There is no definition of 'away from' but there are appeal decisions brought to my attention which have allowed sites at a greater distance than 2.6km from the nearest settlement. In essence decisions need to be taken on a case by case basis. There is no dispute in this case that the built up area to the east will be moved towards the appeal site as a result of extant planning permissions, thus reducing the degree of separation between them.
19. I am satisfied that local services are reasonably close, and certainly close enough to be reached conveniently. It is also possible to cycle to services along Urray Nook Road which, although lacking lighting, does have good width and alignment, and does not appear to be heavily used. However, I recognise that the likelihood is that private vehicles would be used to access services, but the distance is not great. I am also mindful of the fact that whatever the outcome of these appeals there would remain on site a substantial and permanent stable block. That would be bound to generate traffic movements.
20. In environmental terms, therefore, I am satisfied that the occupation of the existing pitch, and the proposed second pitch would be of limited environmental impact, and would not be materially harmful to the surrounding area.
21. Taking these matters in the round I am satisfied that the site has satisfactory sustainability credentials and that its location should not count against it in either of these appeals.

### ***The Development Plan***

22. I turn then to the development plan. The Borough Council's Core Strategy Development Plan Document was adopted in 2010. Policy CS9 deals with provision for Gypsies, Travellers and Travelling Showpeople. The second element of the policy sets out criteria for the consideration of new sites. There are 4 criteria, and there is no dispute that the appeal proposals comply with criteria ii), iii) and iv). The disputed criteria (i) is locational, and seeks to ensure that sites are accessible to schools, shops, healthcare and other local facilities. I have already determined that in sustainability terms the site is satisfactory. As a result I see no conflict with Policy CS9 for either proposal.

23. The reasons for refusal of Appeal A (and putative reasons for refusal of Appeal B) also refer to Policies CS3 and 10. Policy CS3 is a wide ranging policy seeking to achieve a number of objectives relating to sustainable living, including protecting and enhancing important environmental assets. There is no definition of what such assets are, but I have no reason to believe that these proposals would conflict materially with the overriding objectives of that policy.
24. Policy CS10 refers in part to the strategic gap between Eaglescliffe and Middleton St George. The appeal site can reasonably be assessed as being within that gap, although its representation on any map I have seen is purely diagrammatic. In any event the existing stables block is within the gap, and any extra development as a result of these appeals would add little to any perception that the gap was being eroded. There is no material conflict with this policy in the proposals before me.
25. Finally, the Council refers to saved Local Plan Policy EN13. The Local Plan dates from 1997 and Policy EN13 is a restrictive policy which seeks to limit development outside settlement limits to that necessary for a number of specified purposes. The appeal proposals do not fall within any of those purposes. There is, therefore, conflict with this policy.

### ***The Disputed Condition***

26. The reason given for the disputed condition is set out in the heading to this decision. In relation to the first part of the reason I have already found that the site has satisfactory sustainability credentials.
27. With regard to the second part of the reason I am mindful of the need to provide Gypsy sites within the Borough. The needs of the applicant "as a member of the travelling community" would equally apply to any other Gypsy or Traveller. The reason for the condition does not suggest that there is anything in Mr McStravick's personal circumstances which warrant an exception being made for him alone. The reason is clear – it is because Mr McStravick is a Gypsy.
28. When the reason for the condition is broken into its parts it becomes clear, based on my findings on sustainability, that the first part of the reason falls away. The second part falls away given the fact that the Council has used Mr McStravick's generic membership of the travelling community as its justification, and not personal circumstances. In any event I am satisfied that the site is, in its own right, a suitable location based on the Council's own policy CS9. Furthermore it is difficult to see what benefits result from the condition since Mr McStravick, as a young man, is likely to be resident on the site for many years to come. I have no doubt, therefore that the disputed condition is not necessary.

### ***The Planning Balance***

29. Drawing together all of the above factors I have found the following:
  - There is a current unmet need for a significant number of Gypsy and Traveller pitches in the Borough. This attracts significant weight.
  - The site has satisfactory sustainability credentials and the addition of a second pitch would not be unacceptably harmful to the character or

appearance of the locality, subject to conditions requiring landscaping. This is an important material consideration.

- The proposed developments are in accordance with Policy CS9, and do not offend the overriding objectives of Policies CS3 and CS10. There is, however, conflict with saved Local Plan Policy EN13.
- The need for the disputed condition has not been made out.

30. In my judgement the clear and significant need for Gypsy and Traveller pitches, combined with the lack of harm in other respects, overwhelmingly outweighs the conflict with Local Plan Policy EN13. It follows that both appeals should succeed.

### **Conditions**

31. Appeal A. It is necessary to substitute a condition which specifies that the site should be occupied by Gypsy and Travellers only as this site would not be considered suitable for residential occupation otherwise.

32. Appeal B. It is also necessary to impose the same restrictive condition. At the hearing the prospective occupant of the second pitch provided some information on his Gypsy lifestyle. However, planning permission would not specify the occupant and it would be for the Council to satisfy itself that occupation of the site was carried out in accordance with the restrictive condition noted above.

33. In addition, in order to ensure a satisfactory form of development conditions are required which restrict the number of caravans on the second pitch, which restrict the size of vehicle stationed on the pitch, restricts commercial use, and which requires further landscaping to assist assimilation in to the area. In this appeal it is necessary to specify the approved plans to define the permission.

34. For the reasons given above I conclude that the appeals should be allowed.

*Philip Major*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

#### **APPEAL A – APP/H0738/A/14/2219596**

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1, Annex 1: Glossary of Planning policy for traveller sites, March 2012.

#### **APPEAL B – APP/H0738/1/14/2219674**

- 2) The development hereby permitted shall begin not later than three years from the date of this decision.

- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1, Annex 1: Glossary of Planning policy for traveller sites, March 2012.
- 4) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan) shall be stationed on the pitch at any time.
- 5) No vehicle over 7.5 tonnes shall be stationed, parked or stored on this site.
- 6) No commercial activities shall take place on the land, including the external storage of materials.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- 8) 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 buildings or the completion of the development, whichever is the sooner; and 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, unless the local planning authority gives written approval to any variation.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 14.100.01;
  - 14.100.02;
  - Site location plan @ 1:2000.

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## **APPEARANCES**

### FOR THE APPELLANT:

Mr A Moss  
Mr L McStravick  
Mr J Jamieson

Ward Hadaway  
The Appellant  
Potential occupant of pitch No 2

### FOR THE LOCAL PLANNING AUTHORITY:

Mr A Glossop  
Ms R Wren  
Ms E Atkinson

Stockton-on-Tees Borough Council  
Stockton-on-Tees Borough Council  
Stockton-on-Tees Borough Council

## **DOCUMENTS**

- 1 Letter of notification of the hearing
- 2 Extract from the Council's Monitoring and Framework Implementation Plan
- 3 Statement of Common Ground identifying areas of agreement between Tees Valley Authorities on Gypsy and Traveller site provision
- 4 Written response from the Council to the costs application in Appeal A
- 5 Written response from the Council to the costs application in Appeal B