



Appeal Decision

Hearing held on 1 February 2022

Site visit made on 2 February 2022

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2022

Appeal Ref: APP/F4410/W/21/3270719

Land to the south-west of Waggons Way, Stainforth, Doncaster DN7 5TZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jamie Raywood against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref: 19/01624/FUL, dated 4 July 2019, was refused by notice dated 12 November 2020.
 - The development proposed is the change of use of land for Travelling Showpeople yard to accommodate 8 family units.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for Travelling Showpeoples yards to accommodate 8 family units at land to the south-west of Waggons Way, Stainforth, Doncaster DN7 5TZ in accordance with the terms of the application, Ref: 19/01624/FUL, dated 4 July 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. Subsequent to the Council making its decision, the Doncaster Local Plan 2015-2035 (2021) (Local Plan) has been adopted. The Local Plan replaces the Doncaster Core Strategy (2012) (Core Strategy) and the saved policies of the Doncaster Unitary Development Plan (1998), including those policies from the Core Strategy that are contained in the Council's reason for refusal. The revised National Planning Policy Framework (Framework) has also been published since the Council's decision. The main parties commented on these changes to the policy framework prior to and during the hearing, and which I have taken into account in my decision.
3. The description of development in the banner heading above is taken from the planning application form. Matters were raised at the hearing in relation to whether one or more yards were proposed. The Council's decision notice refers to yards in the plural. It was evident that the use of yard in the singular by the appellant is a reflection of the intention that the proposal would be occupied by the appellant and family members. In practice, as the occupiers in each of the proposed 8 units would be making use of the site, the Council's description is more accurate. Accordingly, I have considered the appeal on this basis. This is also reflected in my decision paragraph.

4. The appellant submitted late evidence at the appeal by way of further images related to the previously submitted viewpoint photomontages of the proposal. The Council was given the opportunity to consider this evidence over a prolonged adjournment during the hearing and so there is no prejudice in this regard. The images are of relevance to my deliberations. I have considered them on an indicative basis. I have also considered the comments that I received on them at the hearing.
5. The principle matter of dispute between the Council and the appellant does not concern the proposal as a whole but is centred on a 4.5 metre high acoustic barrier that is proposed. This is required so that the future occupiers would have suitable living conditions, as well as to protect adjoining railway infrastructure. The main parties disagree on the effect of the proposed acoustic barrier in visual terms.

Main Issue

6. Taking account of the above, the main issue is the effect of the proposed acoustic barrier on the character and appearance of the area.

Reasons

7. The appeal site comprises an area of unused land that is accessed off Waggon Way. The side of the site where the acoustic barrier is proposed bounds the Hull/Doncaster railway line and a local train station is found a short distance away. The site also adjoins 2 residential properties and abuts an embankment that carries Station Road onto a bridge over the railway line. This embankment contains a number of trees. The site is for the most part enclosed by security fencing. The Waggon Way frontage is more open and contains security fencing that is more temporary in appearance.
8. A mix of residential and commercial uses are found in the vicinity of the site, as well as the railway infrastructure. There is also an existing Travelling Showpeople site, known as Rhodes Fairacres, as well as Gypsy and Traveller sites close by. Development in the area is generally of a modern and urban nature, but otherwise there are limited unifying characteristics. Overall, the character is unassuming.
9. Policy 11 of the Local Plan forms the main development plan policy that concerns Travelling Showpeople development. Part D) of the policy sets out a number of development management related criteria that new yards will be required to demonstrate. Criterion 2. refers to no significant harm to local amenity. Criterion 6. states that the site is within, or can be well integrated into, the local townscape in a manner in-keeping with the local character, using boundary treatments and screening materials which are sympathetic to the existing urban or rural form. Criterion 6. goes on to say that high fences or large walls should be avoided wherever possible to prevent the impression that the site is being deliberately separated from the rest of the community.
10. Policy 41 sets out a number of principles related to character and local distinctiveness. These include under A) matters concerning recognising and reinforcing the character, high quality design, responding positively to the context, and integrating visually and functionally.
11. Policy H of the Planning Policy for Traveller Sites (2015) (PPTS) also refers to matters related to high walls and fences so as to avoid the isolation of such

- sites from the settled community, as well as to landscaping and openness, amongst other considerations.
12. The varied nature of the surroundings would result in the proposed acoustic barrier not appearing incongruous. Whilst it would be of a solid form and run a not insignificant length, it would be largely bounding the railway line and the associated infrastructure. This itself is functional in its design, as is the security fencing around the site. As such, whether it would enhance the local area needs to be appraised in this context. Its height and scale would not be out of keeping, in particular in the context of the railway bridge, nor the site's contribution to this character. Subject to the agreement of a suitable colour finish to the barrier by way of the imposition of a planning condition, it would not unduly detract from its location.
 13. With regard to comparisons with other more modest yet varied forms of boundary treatment that there are in the area, the proposed acoustic barrier would be too distant for it to be readily unsympathetic. Due to the presence of the railway line and roads around the site boundary, it is an area of land, along with the 2 neighbouring dwellings, that is distinct in these surroundings. No significant harm would arise in this respect.
 14. The site is located within an area designated under the Local Plan as an Employment Policy Area. As a consequence, the effect on the character of the site needs to be considered with the expectation that it will be likely developed at some point. When this is borne in mind, the proposed acoustic barrier would not be unacceptable with regard to the contribution to openness. There are clearly wider aspirations to develop the area but as the site is fairly self-contained and with the proposed acoustic barrier running along the boundary with the railway line, it would not depreciate from the aspiration of such development benefitting the local visual appearance.
 15. The location of the proposed acoustic barrier would also not cause an undue sense of isolation and separate the site from the community. The vast majority of Stainforth is found on the opposite side of the site and the barrier would not extend along this boundary. The railway line already forms a firm separation between Stainforth and the neighbourhood on the far side of the line. The barrier would not substantively add to this existing separation. Nor would there be unacceptable combined effects with the proposed wall along the Waggons Way frontage. This would face towards a commercial premises that itself is well enclosed by its facing elevation.
 16. In relation to views, the proposed acoustic barrier would be most likely apparent when seen from Waggons Way. When approached from the north, views from passing motorists would be fleeting. It would be more likely evident to pedestrians utilising the footways, but it would be viewed over the wall that is proposed along this frontage. It would also increasingly angle away from this frontage and so from the views of pedestrians. The submitted block plan also shows potentially caravans in the foreground in this view and at least for part of the year there would be not inconsiderably sized fairground rides and vehicles parked against the barrier.
 17. When either motorists or pedestrians approach from Waggons Way to the east, the angle of view would be even more acute because of the siting of the proposed acoustic barrier in relation to the alignment of this part of Waggons Way. The end of the fence would be more likely evident, but there would be a

- small electricity substation seen to the front of it. Overall, when seen from Waggon Way, even at relatively close quarters, it would not appear overly high and prominent.
18. When seen by pedestrians and motorists travelling across the Station Road bridge, it would be seen down the embankment. Mature trees on the embankment would also provide partial screening from the bridge itself, as Stainforth is approached. Further away, it would become a more distant feature across the railway line and seen against the backdrop of the commercial premises on the far side of Waggon Way. It would also be effectively screened by trees and one of the neighbouring dwellings from the Station Road and East Lane junction.
 19. Users of the trains passing through and approaching the station would have more of a direct view, but this would be of a short duration and within the context of the infrastructure which makes up the railway line and the station. This would not render the proposal unacceptable.
 20. The Council has raised a number of concerns with the appellant's viewpoint photomontages. I am not unsympathetic in this regard as corroboration of what is shown has not been demonstrated, not least as it is not evident what methodology has been followed in order to produce these visual representations. The same applies to the images submitted at the hearing and to a pole that the appellant erected on site in relation to the height of the proposed acoustic barrier. In coming to my conclusions on the visual impact, I have considered the totality of the evidence before me and what I observed on my site visit in its entirety.
 21. In taking these considerations together, the proposed acoustic barrier would not dominate the streetscene. Landscaping in its vicinity would thus not be necessary for screening and there is not merit in the consideration of alternatives to the barrier because it would not be unacceptable in character or visual terms. Where I was referred to other barriers that the Council has permitted, these are some distance from the site and so do not appreciably inform a consideration of the merits of the proposal in planning terms.
 22. I conclude that the proposed acoustic barrier would not have an unacceptable effect on the character and appearance of the area. It would comply with Policy 11 as it would not cause significant harm to local amenity, and as its scale and form would be reasonably well integrated into the local townscape using boundary treatments and screening materials which are sympathetic to the existing urban form. In addition, the barrier would not give the impression that the site is being deliberately separated from the rest of the community because of the site's location, despite that the barrier would be relatively high. It would also comply with Policy 41 where it concerns character, high quality design, context and integrating visually and functionally.
 23. The proposed acoustic barrier would also comply with Policy H of the PPTS as it would avoid the isolation of such sites from the settled community, as well as concerning landscaping and openness. It would also accord with the Framework where it sets out that planning decisions should ensure developments, amongst other considerations, add to the overall quality of the area, are visually attractive and are sympathetic to local character. It is not a situation where development that is not well designed should be refused.

Other Matters

24. There is also disagreement between the main parties over whether there is an identified need for more yards for Travelling Showpeople with regard to the Council's Travelling Show People Accommodation Need Assessment (2018) (TSPANNA) and Policy 11. The Council considers that it can demonstrate a surplus of plots over the initial 5 year assessment period of the TSPANNA and that the need for the proposal has not been adequately justified in order to outweigh its concerns, whilst also accepting that the TSPANNA does not act as a ceiling to the grant of further permissions. The appellant considers there is some underestimation to the need. However, as I have found the proposal to be not unacceptable with regard to the effect on the character and appearance of the area, and that it would accord with Policies 11 and 41, the PPTS and the Framework, I do not have cause to consider this matter further and as part of a balancing exercise.

Conditions

25. In addition to the timescale for implementation, I have imposed for the purposes of certainty a condition concerning the approved plans that show the proposal. I have also imposed conditions by way of the occupancy of the site so that it meets the needs of Travelling Showpeople and in relation to the plots and caravans, in the interests of the living conditions of the future occupiers.
26. I have also imposed a condition in relation to the details of the acoustic fence, in the interests of protecting the living conditions of the future occupiers and the character and appearance of the area, as well as for the safety of the railway line. This includes the proposed colour finish of the barrier. I have also included a condition relating to the storage of equipment and non-residential caravans as shown on the approved drawing and excluding an area that I was informed contains water infrastructure. This is in the interests of character and appearance and protecting water supply. Whilst the Council requested a further storage plan, I am not persuaded this would show a great deal over and above what is already shown.
27. I have also imposed a condition concerning the implementation of the Flood Risk Assessment and Flood Evacuation Plan, in the interests of minimising flood risk, and a landscaping details condition in the interests of character and appearance. Conditions are also imposed concerning biodiversity gain, in the interests of ecology, and with regard to surfacing in the interest of highway safety.
28. A condition is imposed regarding surface water drainage works in the interests of providing satisfactory drainage and minimising flood risk. Conditions are also imposed in relation to land contamination, in the interests of protecting public health.
29. Where conditions are pre-commencement, there is agreement by the appellant through the signing of the Statement of Common Ground (SoCG) which contains these conditions. This was reaffirmed by the appellant at the hearing.
30. Where I have changed the remaining wording of the conditions put forward by the SoCG, I have done so in the interests of precision and without changing their overall intention.

Conclusion

31. The proposal would not be unacceptable with regard to the effect on the character and appearance of the area. It would comply with the development plan when considered as a whole, and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. For the reasons set out above and having regard to all matters that have been raised, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matt Williams	Planning Consultant/Partner, Brimble, Lea & Partners
Jamie Raywood	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Garry Hildersley	Development Manager
Mary Fleet	Senior Planning Officer
Andy Brown	Senior Policy and Insight Manager

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council, Application correspondence with Network Rail
- 2 Appellant, Further images of the viewpoints
- 3 Appellant, Location images showing the locations of acoustic barriers at Armthorpe and Edenthorpe

Schedule of 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 plan: 17234 – 3 Rev D.
- 3) The site shall not be occupied by any persons other than Travelling Showpeople, as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 4) There shall be no more than 8 plots on the site and on each of the 8 plots hereby approved no more than 1 caravan shall be stationed at any time for residential occupation.
- 5) The development hereby permitted shall not commence until details of the acoustic fence including its type, precise siting, construction methodology and external colour finish have been submitted to and agreed in writing by the local planning authority. The acoustic fence shall be implemented in accordance with the approved details prior to the development being brought into use and shall thereafter be maintained.
- 6) The storage of equipment and non-residential caravans shall be carried out in accordance with plan: 17234 – 3 Rev D and shall thereafter be maintained. No storage shall take place in the area shown in red hatched lines on plan: 17234 – 3 Rev D.
- 7) The development hereby permitted shall be carried out in accordance with the submitted Flood risk assessment (received 5.7.19) 10th July 2018 report no: ML/FRDS/1051/01 and the Flood evacuation plan (received 2.12.19) and shall thereafter be maintained.
- 8) The development hereby permitted shall not take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include a soft landscape plan, a schedule providing plant and tree numbers and details of the species, nursery stock specification in accordance with British Standard 3936: 1992 Nursery Stock Part One and planting distances of trees and shrubs; a specification of planting and staking/guying; a timescale of implementation and details of aftercare for a minimum of 5 years following practical completion of the landscape works. Thereafter the approved scheme shall be implemented in full accordance with the approved details and the local planning authority notified in writing within 7 working days to approve practical completion of the planting. Any part of the scheme which is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme.
- 9) The development hereby permitted shall not commence until a scheme showing Biodiversity Net Gain calculations using the DEFRA Small Sites Metric in full in the original Excel workbook form shall be submitted to and approved in writing by the local planning authority. The approved scheme shall have the purpose of ensuring that the development shall result in a biodiversity net gain of a minimum of 10% in accordance with Policy 30 of the Doncaster Local Plan 2015-2035 (2021). The approved scheme shall either include:

- (a) an on-site scheme that clearly demonstrates a biodiversity net gain of a minimum of 10% within the development site which will be maintained for 30 years from the date of implementation of the scheme;
- (b) details of agreements and evidence of contract(s) having been entered into with third parties for the delivery of the required biodiversity net gain offsetting of Biodiversity Units in accordance with the scheme;
- (c) an adaptive management plan for the site detailing the management measures to be carried out to achieve target habitats and conditions according to DEFRA Small Sites Metric habitat trading rules.

The development shall be carried out in accordance with the approved scheme.

- 10) Prior to the development hereby permitted being brought into use that part of the site to be used by vehicles shall be surfaced, drained and marked out in a manner that has been previously submitted to and approved in writing by the local planning authority and shall thereafter be maintained.
- 11) The development hereby permitted shall not be begun until details of the foul, surface water and land drainage systems and all related works have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be implemented in accordance with the approved details concurrently with the development and the drainage system shall be operating in accordance with these details prior to the occupation of the development and shall thereafter be maintained.
- 12) The development hereby permitted shall not commence until a contaminated land assessment and associated remedial strategy, together with a timetable of works, has been submitted to and approved in writing by the local planning authority (LPA), unless otherwise approved in writing with the LPA.
 - a) The Phase I desktop study, site walkover and initial assessment must be submitted to the LPA for approval. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.
 - b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved by the LPA prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the LPA for approval.
 - c) If as a consequence of the Phase 2 Site investigation, a Phase 3 remediation report is required, then this shall be approved by the LPA

prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters. The site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works.

e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

- 13) Should any unexpected significant contamination be encountered during development, all associated works shall cease and the local planning authority (LPA) shall be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA.
- 14) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the local planning authority (LPA) prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the LPA prior to any soil and soil forming material being brought on to site.