

Appeal Decision

Hearing held on 10 February 2022

Site visit made on 10 February 2022

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/J2373/W/20/3258270

Land adjacent to 433 Midgeland Road, Blackpool, Lancashire FY4 5ED

- 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 Charles Tyers against the decision of Blackpool Borough Council.
 - The application Ref 20/0038, dated 28 January 2020, was refused by notice dated 24 June 2020.
 - The development proposed is change of use of land to a mixed use for the keeping of horses and as a residential caravan site for 2 Gypsy families including the stationing of 4 caravans, laying of hardstanding and erection of amenity buildings.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a mixed use for the keeping of horses and as a residential caravan site for 2 Gypsy families including the stationing of 4 caravans, laying of hardstanding and erection of amenity buildings at land adjacent to 433 Midgeland Road, Blackpool, Lancashire FY4 5ED in accordance with the terms of application Ref 20/0038, dated 28 January 2020 and subject to the 14 conditions in the attached Schedule.

Preliminary Matters

2. The Hearing remained open to allow the Council to advertise the proposal in accordance with the Regulations for development within a conservation area. The consultation period has expired, and no representations were received as a result of the advertising. The Hearing was then closed in writing.

Main Issues

3. The main issues are:
 - whether the appeal site is suitably located for the proposed development having particular regard to the development strategy for the area and the site's relationship to services and facilities, and
 - the effect of the proposal on the character and appearance of the area, including the Marton Moss Conservation Area.

Reasons

Location

4. The appeal site is located in Marton Moss where Policy CS26 of the Blackpool Local Plan Part 1: Core Strategy (2012 – 2027) (BLP) sets out that the character of the remaining lands within the area is integral to the local distinctiveness of Blackpool and valued by the local community. In this regard the policy seeks to adopt a neighbourhood planning approach to development within the area.
5. Whilst the Marton Moss Neighbourhood Plan (NP) is at an advanced stage, it has not been examined and as such does not form part of the development plan. Moreover, my attention has not been drawn to specific emerging policies which may be relevant to the appeal proposal.
6. In circumstances where there is no neighbourhood plan, part 2 of Policy CS26 limits development in the area to certain types. Whilst outdoor recreational uses, including the keeping of horses is included, the stationing of caravans is not. Accordingly, the proposal as a whole conflicts with BLP Policy CS26, which is not disputed.
7. The development plan must however be read as a whole and BLP Policy CS16 deals specifically with traveller sites. It was agreed between the parties that Part 2 of the policy is of relevance to the appeal proposal. This part sets out a number of criteria which applications for traveller sites must meet, including whether the appeal site provides good access to local services and facilities including transport links, public transport, shops, schools, jobs, health and local services and other community facilities.
8. The appeal site is accessed off Midgeland Road which is a no through road at the Division Lane end. The site is located close to the main highway network of the area with the M55 motorway, a short drive away. In terms of services and facilities reference is made to the appeal site being 1 kilometre (km) distant from a primary school, 3 km from a secondary school and 2.5 km from local services. The towns of Lytham St Annes and Blackpool are further away where a wider range of services and facilities can be found, including rail stations.
9. Although Midgeland Road is narrow with limited sections of pavement along its length, I observed that there was street lighting along it. At the time of my visits the road was lightly trafficked and there were a number of pedestrians walking along the road, as well as people riding horses. Whilst my observations were a snapshot in time, I have no evidence before me to indicate that these circumstances were uncharacteristic.
10. Given the local highway conditions, the likely time that the journey would be made, and the distance involved, there would be a high probability that the intended future occupiers of the site could walk to the nearest primary school in School Road in safety, with the journey made more convenient with the short-cut through Kitty Lane to access this. Reliance on a private vehicle would not be necessary for this journey.
11. I acknowledge that in order to access the nearest shops and services and secondary school that walking would be unlikely to be an attractive option, particularly in inclement weather or after dark. As such there would be a reliance on a private vehicle to access these services. However, this degree of

reliance is not uncommon in a rural/semi-rural area such as this, and the distances involved would not be excessive to access day to day services, including health facilities. In reaching this view I am mindful that paragraph 105 of the National Planning Policy Framework (Framework) explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In any event, the provision of a settled base for 2 Gypsy families would facilitate their access to health services and education, in line with paragraph 13 of the Planning policy for traveller sites (PPTS).

12. Given the above I find that occupiers of the site would have good access to services and facilities, in accordance with BLP Policy CS16 and Framework paragraph 130 f). Whilst the type of development proposed would conflict with Policy CS26 of the BLP, it is clear that the purpose of this policy is to safeguard the distinctive character of Marton Moss.
13. Therefore, before I can conclude on whether or not the location of the appeal site is suitable for the proposed development, I need to assess its impact on the character and appearance of the area.

Character and Appearance

14. The appeal site is a rectangular shaped plot of agricultural land within the countryside, set between 2 residential properties. It is located within the Marton Moss Conservation Area (CA).
15. The CA is rural in character with low density development set in spacious, rectangular shaped plots of drained mossland, comprising a mix of agricultural/horticultural, residential and equestrian uses. Midgeland Road is identified as the earliest road through the mossland. The Marton Moss Characterisation Report describes the area as one of 'small piecemeal postmedieval enclosure surrounded by busy arterial routes. It consists of the earliest cobbled buildings through to modern detached bungalows. Within the busy communication infrastructure, it is an enclosed leafy landscape based around lanes, rectangular fields and drains with views limited to gaps in hedgerows on the narrow lanes, and across open paddocks'.
16. The appeal site makes a positive contribution to the character and appearance of the area, with the limited amount of development on the site, its open field and mature landscaping to the road and adjoining land, all of which contribute to the rural character and appearance of the area.
17. Although the proposal would result in additional development on the site, this would be concentrated to the rear, beyond an existing tall evergreen hedge, close to an area where the Council has previously granted planning permission for a stable building and hardstanding. The caravans, mobile homes and amenity buildings would be low in height and modest in scale, located some distance from the road and largely screened from it. They would also be largely screened from neighbouring land uses. The field adjoining the road would be retained for the grazing of horses, as would the boundary landscaping.
18. Given the above, I conclude that the rural character of the site and the contribution that it makes to the character and appearance of the area would not be harmed by the proposal. Moreover, the character and appearance of the CA would be preserved, in accordance with the statutory test. In reaching this view, I acknowledge that there are other gypsy and traveller sites along

Midgeland Road, however these are discretely located and the provision of 2 additional pitches as proposed would not, either cumulatively or individually harm the distinctive character of Marton Moss. The proposal accords therefore with the character and appearance aims of Policy CS16 of the BLP, which amongst other matters requires traveller sites to cause no demonstrable harm to the quality, character and appearance of the landscape and to be well designed and landscaped.

Conclusion on location

19. Given my findings above, I conclude that whilst there would be conflict with BLP Policy CS26 because the caravans and amenity buildings do not fall within any of the exceptions within this policy, there would be no conflict with its purpose of seeking to control development in the area so that its distinctive character is safeguarded. The appeal site would provide a good living environment for its residents including access to services and facilities and is suitably located for the proposed development in accordance with BLP Policy CS16.

Other Matters

20. I note the concern raised that the proposal would cause unacceptable environmental impact, however, other than reference being made to the clearance of the land and work to trees, I have no evidence before me to substantiate these claims. Moreover, if there has been a breach of planning control, this is a matter that the Council could consider taking action against.
21. It is accepted that BLP Policy CS16 gives preference to gypsy and traveller sites being located on brownfield land, however this wording is included in the same sentence stating that the site should 'be appropriately located taking into account surrounding uses, ...'. Although within the countryside, this part of Midgeland Road, within the vicinity of the appeal site is residential in character. A part residential use of the site would be in keeping with this character. Whilst not brownfield land, Policy CS16's 'preference' does not exclude development on other land.
22. I note the concern raised that the proposal may undermine the neighbourhood planning process, however I have no evidence before me to substantiate this matter. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. There are clearly tensions within the development plan in respect of this scheme, however for the reasons given I find that the proposal accords with the development plan taken as a whole.

Conditions

23. For certainty it is necessary to impose a condition that the development is carried out in accordance with the approved plans. The application was clearly made on the basis that it would be occupied by those meeting the definition of a gypsy and traveller found in the annex to the PPTS and therefore occupancy of the site should be restricted to those who fall within this definition.
24. Having regard to the character and appearance of the locality the extent of the area for the residential gypsy and traveller caravan site and amenity buildings should be limited and defined, and the development should be restricted to 2 pitches with no more than 4 caravans. Control over the use of the amenity

buildings is also necessary, as are conditions relating to landscaping, fencing and external lighting.

25. Conditions are also necessary preventing commercial activity/storage on the site and controlling the parking of vehicles to protect the character and appearance of the area and the living conditions of nearby occupiers.
26. To protect the living conditions of the intended future occupiers of the site and to prevent pollution, a condition is necessary requiring investigation of potential land contamination. The wording of this condition was agreed to be necessary at the Hearing. To ensure that the site is suitably drained, conditions relating to foul and surface water are necessary.
27. I have altered some of the suggested wording for conciseness.

Conclusion

28. For the above reasons and having regard to all other matters, there are no material considerations before me which indicate that I should make a decision other than in accordance with the development plan. The appeal is allowed.

RC Kirby

INSPECTOR

SCHEDULE

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: SITE LOCATION PLAN Drawing No. 17-1331.03 Rev A1, SITE LAYOUT PLAN, PROPOSED AMENITY BLOCK FLOOR PLAN, FRONT ELEVATION, REARELEVATION, END ELEVATIONS, POST AND RAIL FENCE DRAWING NO. PBA5.
- 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 4 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 2 shall be static caravans) shall be stationed on the site at any time.
- 5) The two amenity buildings hereby approved shall only be used for purposes ancillary to the use of the site as a traveller caravan site and at no time shall they be used for sleeping accommodation.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No vehicle over 3.5 tonnes in weight shall be stationed, parked or stored on the site at any time.
- 8) There shall be no storage of materials, goods or parking upon the paddock at any time.
- 9) Prior to the commencement of development:
 - (a) a phase 1 geo-technical study into potential land contamination shall be submitted to and agreed in writing by the Local Planning Authority; and
 - (b) should the phase 1 report required by part (a) of this condition indicate a need for site investigation, a methodology for a phase 2 geo-technical site investigation into potential land contamination shall be submitted to and agreed in writing by the Local Planning Authority; and
 - (c) the phase 2 investigation approved pursuant to part (b) of this condition shall be carried out in full and the results of this investigation shall be submitted to and agreed in writing by the Local Planning Authority; and
 - (d) any scheme of remediation shown to be required by the investigation undertaken pursuant to part (c) shall be submitted to and agreed in writing by the Local Planning Authority; and
 - (e) the remediation agreed pursuant to part (d) of this condition shall be carried out in full and a validation report confirming the works shall be submitted to and agreed in writing by the Local Planning Authority.

- 10) Prior to the first occupation or use of the development hereby permitted:
- (a) a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. This scheme shall include a full planting schedule detailing plant species and initial plant sizes, numbers and densities;
 - (b) the landscaping scheme agreed pursuant to part (a) of this condition shall be implemented in full and in full accordance with the approved details; and
 - (c) Any trees or plants planted in accordance with this condition that are removed, uprooted, destroyed, die or become severely damaged or seriously diseased within 5 years of planting shall be replaced within the next planting season with trees or plants of similar size and species to those originally required unless otherwise first submitted to and agreed in writing by the Local Planning Authority.
- 11) Prior to the first installation of any fencing on the site, details of its position, height and design shall be submitted to and approved in writing by the local planning authority. The fencing shall be carried out in accordance with the approved details.
- 12) Prior to the first occupation of the development hereby permitted surface water drainage works shall be implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- (a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - (b) include a timetable for its implementation; and,
 - (c) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 13) Foul and surface water shall be drained on separate systems.
- 14) Details of external lighting to be installed on the site shall be submitted to and approved in writing to the local planning authority prior to first installation. The lighting shall be carried out in accordance with the approved details. No additional external lighting shall be installed without the prior written consent of the local planning authority.

APPEARANCES

FOR THE APPELLANT:

Alison Heine	Agent for the Appellant
John Tyers	Representative of the Appellant
Martina Tyers	Representative of the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Susan Parker	Head of Development Management Blackpool Council
Nigel Moore	ORS

DOCUMENTS RECEIVED AT THE HEARING:

1. Letter from Darlington Borough Council Business Support Officer, special Education Needs and Disabilities Service dated 11 January 2022
2. Letter from Tees, Esk and Wear Valleys NHS Neurodevelopmental Assessment Team dated 30 December 2021
3. Letter from All Saints Blackwell Preschool dated 14 June 2021