

## APPEAL ALLOWED

Appeal by Mr & Mrs Buckland

The siting of a static residential unit for occupation by one gypsy family at the Former Castle View Service Station Uttoxeter Road Foston Derby (9/2000/0119)

The application was refused permission for the following reasons: -

The site is located in the countryside where General Development Strategy Policies 4 and 5 of the Approved Derbyshire Structure Plan and the Modified Draft of the Replacement Derby and Derbyshire Structure Plan, respectively, require that development should be necessary in such a location and designed so as to minimise impact on the countryside. In addition, Housing Policies 12 and 9 respectively of those two Plans require, amongst other criteria, that gypsy caravan sites should be capable of sympathetic assimilation into their surroundings. The proposal for a structure resembling a bungalow in a prominent and isolated position, separated from other dwellings, would be inappropriate and unduly intrusive in its surroundings, contrary to the above policies to the detriment of the character of the area.

The proposal would also be in conflict with Housing Policy 15 and Environment Policy 1 of the South Derbyshire Local Plan which are in similar terms to those stated above for the same reasons.

An appeal was made using the Informal Hearing procedure and an inspector, appointed by the Secretary of State, heard the appeal on 13 March 2001. The appellants at the hearing made an application for costs against the Council. Hatton Parish Council appeared at the hearing to present its case against the development.

The main issue identified by the Inspector was the effect of the proposed development on the character and appearance of the countryside having regard to the need to provide sites for gypsies.

The inspector considered the characteristics of the locality and determined that the development would be harmful to the character of the surroundings if there was no special justification for the proposal. In those circumstances, the development would be contrary to Development Plan policies. However, the area is one that is frequented by gypsies and it was established that the appellants were gypsies that frequented the area. And they are entitled to special consideration under the provisions of Circular 1/94.

The Inspector determined that the Council site at Woodyard Lane was full and that it was unlikely that a site to suit the families needs would be available in the short term. The DETR count of sites in the area indicates there is a continuing need for sites in the area and the inspector found that there was a particular need for this family that resorts to the area. He found that the site was in reasonable walking distance of all local services, has appropriate access and turning facilities and access via public transport to secondary school.

He then had regard to the views of the Parish Council and its desire to have a permanent dwelling on the site. This would have to be the subject of a separate planning application and is not something the inspector could consider. Other matters raised were not considered to materially affect the decision on the appeal.

Therefore the Inspector's conclusion was that whilst development on the site be harmful to the character of the area, it represents an opportunity to meet the needs of a single gypsy family. Conditions would help to mitigate the impact of the development. The above considerations were

considered sufficient to overcome the harm the inspector identified above. Accordingly the Inspector allowed the appeal subject to conditions.

### Costs Application

The appellants applied for their full costs to be paid by the Council on the basis that the Council had acted unreasonably in refusing the application. They considered that the refusal was on the basis of their gypsy status notwithstanding that the site met all the requirements of Circular 1/94. This was acknowledged in the Committee Report.

In rebuttal, the Council argued that Members have the right to take a contrary view to their officers. The reasons for refusal had been justified at the Hearing and Members certainly had knowledge of the advice in Circular 1/94 when they took their decision. The decision had had regard to both policy and the gypsy status of the appellant.

The Inspector found that the Council had provided evidence of the harm the development would cause to the character of the area and he had agreed that there would be harm to the character of the area. That harm was only outweighed by the gypsy status of the appellants. The Council had also demonstrated that Members had regard to the gypsy status of the family.

The Inspector concluded that there was no unreasonable behaviour on the part of the Council and DISMISSED the application for costs.

## Appeal Allowed

**Appeal by Mr R Charlton against the refusal of planning consent to change the use of the garage to a dwelling (bungalow) on land adjacent to 16, Highfield Street, Swadlincote.**

Consent was refused for the following reason:

**The application is contrary to Housing Policy 4 and Housing Policy 11 of The South Derbyshire Local Plan which seeks to ensure new housing development is of a standard that does not adversely affect the character and appearance of the area and protects the amenities of adjoining residential occupiers. This proposal would result in the formation of a residential unit in close proximity to other residential units such that it would have an adverse impact on the outlook, privacy and amenity of those properties. Additionally, the proposal would result in the parking of vehicles on the front of the property that would detract from the amenity of future occupiers, neighbours and adversely affect the amenity of the area through the parking of vehicles in close proximity to the highway. The proposal would therefore, result in the over development of the site.**

The inspector noted the policies of the development plan and particularly those requiring new housing development to make full use of opportunities for the conversion of buildings. Additionally, he referred to the advice contained in national guidance relating to the promotion of flexible standards and, particularly, the underlying aim of the revised PPG 3 "Housing" regarding the need to increase density and to be flexible in terms of the standards set for new housing layouts.

The inspector viewed the building as a substantial feature in the street and disputed the view of the Council that it was a small ancillary building. The inspector believed it lacked only the domestic paraphernalia of a bungalow otherwise it took on the form and appearance of a domestic dwelling.

The inspector also differed from the Council's view, and that of the inspector who determined a previous appeal on the site, that the parking of vehicles on the site's frontage would have a detrimental impact on the street scene. He took that view as the parking area could be reduced, so it only accommodated two vehicles, and landscaped and that other on street and frontage parking took place in the street itself and the area more generally.

The inspector also differed from the Council's view that conversion would result in an over intensive form of development on the site. He concluded that the area of housing around the site was tight knit and that the proposal would not be at odds with that character and appearance.

The inspector acknowledged that the relationship between this unit and those around it fell short of the Council's normal standards with regard to space about and between dwellings. However, he noted that the building currently exists and that the impact of it on its neighbours would not change as a result of him granting consent for it's

conversion. He again differed, in taking this view, from the inspector who determined the previous appeal.

The inspector granted consent subject to conditions.

Comment: This decision shows the direction that has been given to the Planning Inspectorate to implement the advice contained in PPG 3 "Housing" with regard to the need to introduce flexibility into new housing schemes, whether they are for the conversion of buildings or new housing layouts.

## APPEAL DISMISSED

Appeal by MrJordan

The erection of a detached house on land adjoining 43 Oak Lodge Uttoxeter Road Foston Derby (9/2000/0872)

The application was refused permission for the following reasons:

1. The application is considered unacceptable as the site lies in the open countryside where the policies of the approved Derbyshire Structure Plan General Development Strategy Policy 4 and Housing Policy 7 together with General Development Strategy Policy 5 and Housing Policy 8 of the Derby and Derbyshire Joint Structure Plan seek to limit development in the countryside to that which is necessary for the operation of an established rural business. The policies also require that where development is permitted it should be so designed and located such that it has as little impact as practicable on the countryside. The proposed dwelling would occupy an open area outside any village and the proposal would have the effect of extending sporadic development into the countryside to the detriment of the rural character of the area. This would be contrary to the provisions of the above policies as there is no appropriate justification for the release of land in the countryside that would warrant the grant of planning permission in the exceptional circumstances as set out in the policies.

2. The application is considered unacceptable as the site lies in the open countryside where Environment Policy I and Housing Policy 6 of the adopted South Derbyshire Local Plan are applicable. The aims of Environment Policy I are similar to those of the Structure Plan and in the absence of appropriate justification the development would be contrary to the above policy on the basis that it would result in an unwarranted intrusion into the countryside to the detriment of the rural character of the area. The terms of Housing Policy 6 of the Local Plan allow for the erection of dwellings in the countryside where the development represents the infilling of small gaps for normally not more than 2 dwellings within small groups of houses provided that it is of a scale and character in keeping with the settlement. The proposal would result in the extension of a small area of sporadic dwellings in the countryside. This would be contrary to the above policy and represent an unacceptable intrusion into the countryside to the detriment of the rural character of the area.

An appeal was made against the Council's decision using the written representations procedure and an inspector considered the representations and then visited the site in the week commencing 7 May 2001.

The main issue was identified as being whether the proposed development would unacceptably intrude into the countryside.

The Inspector noted the site and the surroundings. In particular, the countryside location and the fact that the proposed development could in no way be described as infilling. Although the appellant had argued that the house would help in maintaining his land, the Inspector found that this would entirely untenable.

The overall conclusion was that the proposal would intrude into the countryside and thus contravene long established planning policies for the protection of the countryside. In the absence of any justification to outweigh these policies, he dismissed the appeal.

