

Supplementary Reports 5 February 2018

Item No	Application No	Page No	Description	General / Significant
1	PAP/2017/0519	18	Land South Of Flavel Farm Bungalow, Warton Lane, Austrey, Change of use of land to a mixed use site, to continue the equestrian use and add residential use for two Gypsy families. Site to contain two static caravans, two touring caravans, parking for four vehicles with associated hardstanding and water treatment plant	General
4	DOC/2013/0020	2	Plot 1 Ocado, Phase 2, Danny Morson Way, Birch Coppice Business Park, Dordon, Approval of details required by condition 13 of permission PAP/2010/051, dated 4 March 2011, relating to a noise impact assessment of external activities at the premises.	General
7	PAP/2017/0465	12	Clinic And Welfare Centre, Coventry Road, Kingsbury, Ground floor space for two commercial units covering the following uses; shops (use class A1) and financial and professional services (use class A2), and two one bed first floor apartments (use class C3)	General

(1) Application No: PAP/2017/0519

Land South Of Flavel Farm Bungalow, Warton Lane, Austrey,

Change of use of land to a mixed use site, to continue the equestrian use and add residential use for two Gypsy families. Site to contain two static caravans, two touring caravans, parking for four vehicles with associated hardstanding and water treatment plant, for

Mr James Connors

Background

Since publication of the agenda, the applicant has forwarded three appeal decision notices which he wishes to be considered as part of the determination of this planning application. The Chairman has agreed that they should be referred to the Board through this supplementary report.

Appeal Decisions

The first appeal is for a site in a neighbouring authority, Hinckley and Bosworth Borough Council (ref: APP/K2420/C/15/3132569). Here, the Inspector found that the National Planning Policy Framework (the Framework), the Government's Planning Policy for Traveller Sites (the PPTS) and the Development Plan for Hinckley and Bosworth BC do not lay down an objection in principle to gypsy and traveller development in the countryside. As such the Inspector found that there was no basis in local or national policy to consider that the principle of the use is unacceptable here. In reaching this view, the Inspector noted the PPTS states that decision-makers should 'very strictly limit' new traveller sites in the open countryside.

With regards to the issue of sustainability, the Inspector made reference to Policy 18 in the Hinckley and Bosworth Core Strategy which requires gypsy and traveller sites to be within a reasonable distance of local services and facilities. Here, the Inspector found that the road was unlit and had no pavements and in places forward visibility was limited. The Inspector found that it was unlikely that residents at the appeal site would walk or cycle along the lane to the shops, public transport links and other facilities, especially if accompanied by small children or if they had mobility difficulties. The Inspector also found that it is reasonable for the planning system to seek to ensure residents have the option of using sustainable means of transportation to get to shops, jobs, schools and similar. The requirements of the Council's Development Plan were found to be sufficiently flexible to reflect the Framework. As such the appeal site was found to conflict with the requirements of the Development Plan and the Framework in that the distances involved and the nature of the connections meant that the development would be reliant on the private car.

The Inspector allowed a temporary consent due to the personal circumstances of the appellant and the Council's lack of an up-to-date five year land supply of deliverable sites.

The decision letter is at Appendix A.

The second appeal decision relates to a site at Yew Tree Farm, Tarnock, Axbridge, Somerset (ref: APP/V3310/C/12/2179931 and 2179932). The site was recorded as being located near a small hamlet with few if any local services. An exception was a bus service with 'hail and ride stops' within easy walking distance of the appeal site. However, the Inspector found that the service was infrequent and the appellants would make the majority of their journeys for social, domestic and pleasure purposes by car. Nevertheless, the Inspector found that such sites should be acceptable, in principle, in rural and semi-rural areas, providing that they are within reasonable, not necessarily walking distance of local services and facilities. The appeal at Tarnock was allowed as the location of the site was found to be reasonably located in relation to a number of surrounding larger villages and towns.

It is important to note that the site at Tarnock is located directly off the A38 which is on a public transport route and has a pedestrian footpath along its length to gain access into the neighbouring settlement of Tarnock, to the bus stops and to the Children's Nursery located next to the site. The characteristics of this appeal site are very different to the application site at Austrey.

This letter is at Appendix B.

The third appeal relates to an appeal at Springdale Farm, Whitestone, Exeter (ref: APP/P1133/C/12/2175641). The Council here had an emerging policy for private gypsy and traveller pitches in the open countryside and one of the criteria was that the proposed site is within 30 minutes travel by means of public transport, walking and/or cycling of a hospital and secondary school. The Inspector gave this emerging policy significant weight and found that the site was within 30 minutes to Exeter City Centre by bus and 13 minutes bus ride to Exeter College. As such although the Inspector found that the location of the site was not ideal in terms of accessibility due to the unmade nature of the track, the nearest hospital and secondary school were within 30 minutes and so the development was not an unsustainable form of development. The appeal was allowed.

The letter is at Appendix C.

Observations

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 any determination must be in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for North Warwickshire, under Policy NW8 (Gypsy and Travellers Sites) in the Adopted Core Strategy and Policy LP10 (Gypsy and Traveller Sites) in the NWLP Draft Submission November 2017, accepts the principle of gypsy and traveller development in the countryside.

It is important to note that the Hinckley appeal was determined in 2016 and so after the production of the updated version of the PPTS (2015) which seeks to 'very strictly limit' new traveller sites in the open countryside. The other two appeals were determined in 2012 and so before this updated version.

Unlike the other Council's the subject of these appeal decision notices, North Warwickshire has an up-to-date Gypsy and Traveller Accommodation Assessment and can demonstrate a five year land supply of deliverable sites. The policies in the Development Plan are therefore considered to be up-to-date for the purposes of the Framework.

Conclusions

Similar to the Hinckley appeal, the criteria for sustainable development for gypsy and traveller sites in North Warwickshire under Policy NW8 and emerging Policy LP10 is considered to be sufficiently flexible to reflect the Framework. Indeed, it is important to note that the National Federation of Gypsy Liaison Groups has offered no objection to emerging Policy LP10 and has stated in their consultation response that the wording of this policy is a reasonable approach to site acceptability.

The wording of Policy 18 in the Hinckley and Bosworth Core Strategy requires gypsy and traveller sites to be within a reasonable distance of local services and facilities. This wording is similar to the wording in Policy NW8 and LP10 albeit the wording in the latter two policies also includes the wording "safe." Warton Lane is similar to the road in the Hinckley appeal in that the road is unlit and has no pavements and in places forward visibility is limited. It is maintained by the Council that residents at the application site are unlikely to walk or cycle along the lane to the shops, public transport links and other facilities, especially if accompanied by small children or if they have mobility difficulties. As such, the conclusion reached by the Inspector in the Hinckley appeal on sustainability is considered to be the same for the application site at Austrey in that it is reasonable for the planning system to seek to ensure residents have the option of using sustainable means of transportation to get to shops, jobs, schools and similar and it is highly likely that occupiers of the site will be dependent on the private motor vehicle.

It is thus recommended that the application is refused under Policy NW8 and Emerging Policy LP10 in that the site is not considered to be a reasonable safe walking distance from a settlement development boundary.

BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2017/0519

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant Highway Consultant	Letter and Appeal Decisions	23/1/18

Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

Appeal Decision

Hearing held on 7 June 2016

Site visits made on 29 April and 7 June 2016

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 10 August 2016

Appeal Ref: APP/K2420/C/15/3132569

**Land north-west of Cold Comfort Farm, Rogues Lane, Hinckley,
Leicestershire LE10 3DX**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Michael Cash against an enforcement notice issued by Hinckley & Bosworth Borough Council (HBBC)
- The notice was issued on 23 July 2015.
- The breach of planning control as alleged in the notice is the unauthorised change of use of land from agriculture to use as a residential gypsy and traveller caravan site.
- The requirements of the notice are
 - i. Permanently cease the use of the land as a residential caravan site
 - ii. Permanently remove from the land all caravans; associated vehicles and domestic paraphernalia
 - iii. Reinstate the land to its former condition as an open grassed field.
- The period for compliance with the requirements is 3 months for requirements (i) and (ii), and 4 months for requirement (iii).
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is also to be considered.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Decision.

The notice

1. The Land, as defined in the notice, comprises a field of roughly 2.02ha. However, the parties accepted that the entirety of this was not a residential gypsy and traveller caravan site and indeed that had never been the case. Rather, it was being used for a mixed use comprising a residential gypsy and traveller caravan site and the keeping of horses. It was agreed the alleged breach could be corrected in this regard without prejudice to any party.

Procedural matters

2. This appeal was initially to be determined by means of written representations with a site visit scheduled for 29 April 2016. However I changed the procedure to that of a Hearing, but still viewed the site when in the area on that date.
 3. It was agreed the deemed planning application was for 2 pitches, and that, if allowed, each pitch would contain a static caravan and a touring caravan. I appreciate that this number of caravans has not been present to date, and no static caravan has been on the site since the commencement of the breach. However, 2 static and 2 touring caravans could be put on the land without
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stepping outside of the allegation before me, and it is reasonable to expect static caravans to be on a residential gypsy and traveller site. Moreover, I am aware that the number of pitches and the number of caravans can be controlled by conditions.

4. With the agreement of the parties I am therefore considering the appeal on the basis that permission is sought for 2 pitches, each of which would contain no more than 2 caravans, with no more than one being a static caravan. Although what the static caravans would look like is not known at this stage, the precise appearance of caravans on a site is rarely controlled under a planning permission. Moreover, a condition could require them to accord with the definition of a caravan in the relevant legislation.

Main Issues

5. The main issues in this case are
 - a) the effect of the development on the character and appearance of the countryside;
 - b) whether the distance to services places undue reliance on the use of the private car;
 - c) the effect on highway safety;
 - d) if any harm is caused whether this is outweighed by material considerations and
 - e) whether a temporary permission would be justified.

Policy

6. After the Hearing the *Site Allocations and Development Management Policies DPD* (the DMP) was adopted and the *Hinckley & Bosworth Local Plan* was then no longer part of the development plan. Accordingly I have taken into account the policies in the DMP rather than those in the Local Plan.

Reasons

The status of the residents

7. I was told that the residents on site would be Mr Alwyn and Mrs Martina Smith, together with their daughter, Roseanne, and her husband, the Appellant Michael Cash. It was contended they had never lived in bricks and mortar, none of them had permanently ceased travelling and they all fell under the definition of gypsies and travellers given in *Planning policy for traveller sites* (PPTS).
8. The Council did not challenge this, and indeed it implicitly accepted their status by identifying the breach of planning control as the use of the land as a gypsy and traveller site. It added though that nothing had been forthcoming to support the contentions.
9. However, while he had no evidence to the contrary Mr Wiggins said the status of the site's residents had not been proven. To my mind though there is no substantive reason to question the Appellant's assertions in this regard, and so I have proceeded on that basis.

10. A Mr Phillips also stayed on the site intermittently, but it was accepted he did not fall within the definition of gypsies and travellers and I was not told he had sole occupancy of either of the caravans now present. No case for his continued presence was offered.

Issue a) Character and appearance

11. This site lies in an area that is defined by HBBC in its development plan as being countryside. It is characterised by fields enclosed with hedges and occasional small copses and has a scattering of farmsteads and houses. While it was said it also had historic associations with the Battle of Bosworth, the site of the battle is some distance away and there is no specific designation relating to that battlefield that affects the land subject of the appeal.
12. The notice concerns a field that lies to the south of Rogues Lane and to the west of an unnamed track (the track) that runs between lane and Cold Comfort Farm to the south-east. Otherwise, around the site is agricultural land used for arable purposes and grazing.
13. Access is currently taken from the track. Near to the access are 2 caravans and a campervan that are set around some rough hard surfacing and paving. There is also a 'portaloo' and 2 sheds, one of which is used for cooking and the other is a store. On the south-east corner of the land is a stables block, and the bulk of the site is grassed and used for grazing horses.
14. The *National Planning Policy Framework* (the Framework), the PPTS and the development plan do not lay down an objection in principle to gypsy and traveller development in the countryside. There is therefore no basis in local or national policy to consider that the principle of the use is unacceptable here.
15. In reaching this view, I have noted the PPTS states that decision-makers should '*very strictly limit*' new traveller sites in the open countryside. However, this is not a prohibition against such uses, and I have no basis to assume there is an excess of such sites in the vicinity or indeed across the Borough.
16. I now turn to the specific impact of the development before me, and in doing so I have regard to the fact that 2 static caravans would, in all probability, be present. In making this assessment I note that the Framework places particular emphasis on the protection of valued landscapes, but to my mind it does not follow that minimal protection should be attributed to parts of the countryside that are not subject to any specific designation. Rather the need to recognise the intrinsic character and beauty of the countryside is one of the core planning principles given in the Framework. Although I understand why this location has no specific designation that in itself does not mean it has no intrinsic beauty as a rural area. Indeed, in my opinion it forms part of a pleasing patchwork of fields, hedgerows and lanes.
17. In this regard the Appellant contended that Policy DM4 in the DMP was inconsistent with the Framework. I accept it says the planning system should '*protect*' the intrinsic beauty and character of the countryside rather than '*recognising*' it as stated in paragraph 17 of the Framework. To my mind though it still reflects the concern that should be given to rural areas.
18. At present, the activity on the land is well screened from Rogues Lane by the dense tall hedge that is along the entirety of that boundary. Moreover, this hedge turns to run down the west side of the track and similarly screens the

development from that direction. However, despite this views are possible though the gateway, and those would be increased with the removal of some of the hedge to provide improved sight splays (see below). The caravans are also clearly visible from the public footpath that runs to the west of the site.

19. In my opinion, from where they could be seen the caravans are striking and notable elements in the countryside due to their angular form, their external finishes and their ancillary paraphernalia. Consequently, because of their location away from any existing buildings, they relate poorly to the rural landscape and this would be exacerbated if static caravans were introduced. Whilst I accept the partially concealed nature of the site reduces this effect, I nonetheless find the development causes harm to the character and appearance of the area.
20. Although I appreciate that gypsy and traveller provision will, to some extent, rely on rural areas to be satisfied, it is likely there could well be sites that are better related to existing built form that would have a lesser impact on the intrinsic character and beauty of the countryside when compared to the scheme before me.
21. Finally, whilst I have found that DMP Policy DM4 was not inconsistent with the Framework, my overall conclusions in relation to this issue would have been no different had I relied solely on Government guidance.
22. Accordingly I conclude the development detracts unacceptably from the character and appearance of the countryside, in conflict with Policy DM4 in the DMP, *Core Strategy* Policy 18 and the Framework.

Issue b) Sustainability of location

23. *Core Strategy* Policy 18 states that gypsy and traveller sites should be '*within a reasonable distance of local services and facilities*'. However, what constitutes a '*reasonable distance*' is not defined, and it also accepts that sites need not be '*directly adjacent to the settlement boundary*'.
24. The site is between Hinckley and the villages of Stoke Golding and Barwell. The nearest supermarket is about 1.25km away while bus stops are at either end of Rogues Lane, and other services are further afield. Rogues Lane itself is a winding road that is unlit and has no pavements, and in places the forward visibility is limited. Given these factors I consider it unlikely that residents at the appeal site would walk or cycle along the lane to the shops, public transport links and other facilities, especially if accompanied by small children or if they had mobility difficulties.
25. The footpath that runs down the west boundary of the site leads to the supermarket. Whilst it may be pleasant to use this for recreational purposes, the initial section crosses a ploughed field and this would be difficult to walk in wet weather, at night time, if carrying shopping or if not wearing suitable footwear. It was also contended that the track was a public highway and this led to Hinckley. However, its status was uncertain, and again it would be unlit and poorly surfaced. I have therefore attached little weight to this path and the track as an alternative means of accessing services from the site.
26. I accept that, even if close to services, the Appellant and his family could nonetheless choose to access them by car. Similarly, he could decide not to use services nearby but rather travel an appreciable distance to facilities

elsewhere. However, it is reasonable for the planning system to seek to ensure residents have the option of using sustainable means of transportation to get to shops, jobs, schools and similar. I nonetheless acknowledge though that any necessary car journeys would not be particularly long, and this reduces the weight given to this concern.

27. In relation to this issue it was the Appellant's view that Policy DM17 in the DMP and *Core Strategy* Policy 18 were not consistent with the Framework. However, I consider their requirements are sufficiently flexible to reflect the Framework.
28. Accordingly, I conclude the distances involved and the nature of the connections mean this development has a reliance on the private car, thereby conflicting, in this regard, with Policy DM17 in the DMP, Policy 18 in the *Core Strategy* and the Framework.

Issue c) Highway safety

29. It was agreed it was reasonable to assume each pitch could generate up to 6-8 vehicle movements a day, and I have no reason to consider otherwise. The Highways Authority also assumed there would be a business use from the site that created further movements, but that is not now before me and could be prevented by condition.
30. The reasons for issuing the notice contended there would be harm to highway safety on Rogues Lane only. At the Hearing the Council confirmed that road could accommodate the additional movements associated with this development. Its concern therefore rested on the increased likelihood of conflict between motorists and those walking or cycling to and from the site.
31. The unlit, winding nature of Rogues Lane, together with its lack of pavements and, in places, its limited forward visibility mean that pedestrians would be at a greater risk than if the road was straighter, better lit, or provided with dedicated areas for them to walk, and they would certainly have to proceed with more caution. However, the road was not heavily trafficked and it was wide enough for cars to pass pedestrians with ease. As stated above, I also consider that the number of additional people walking from these 2 pitches is likely to be very low. Taking these factors together any adverse effect on highway safety would not be severe or even significant.
32. With regard to cyclists, it is common for the country lanes around towns to be used by both recreational cyclists and by those who are commuting to or from outlying settlements. Indeed, a number passed when I was visiting the site. As such, any limited increase resulting from this scheme need not compromise highway safety.
33. Finally, turning to the visibility at the junction of the track with Rogues Lane, a survey showed that the 85th percentile speed for traffic passing this point was 36 mph (eastwards) and 34mph (westward). While this survey appeared to have its limitations, based on my own experience when I drove along the road those speeds are not unrealistic. From this junction visibility to the west was sufficient. Moreover, even in the summer when I visited a splay to the east of 45m was possible, and given the recorded speeds, this is also acceptable.

34. In coming to this view I have taken into account the submitted accident record but, considering the nature of the accidents, this does not lead me to a different conclusion.
35. I am aware as well that the Appellant submitted an application (which was withdrawn prior to determination) that proposed an access direct onto Rogues Lane. However, that is not before me now and I cannot be confident that the necessary sight splays could be adequately achieved. Therefore I am not in a position to support an access on that northern boundary of the site.
36. Although not raised in the reasons for issue, the Highways Authority also expressed concern about the effect of the development on the track. This is roughly surfaced and relatively straight, having an average width of about 4.1m with passing places. Because of its unevenness vehicles are unlikely to travel along this track at more than 15mph. It is also lightly trafficked as it serves only the 3 dwellings at Cold Comfort Farm (plus potentially a fourth dwelling for which planning permission has been granted), together with the farm and a building contractor business there.
37. Within this context I consider that inter-visibility would be good between drivers and any additional pedestrians or cyclists using the track as a result of the development. Moreover, the gravelled surface means pedestrians would almost certainly be aware of traffic approaching from behind. When they did meet there would be ample room for vehicles and pedestrians/cyclists to pass.
38. With regard to the impact of the vehicles from the site, I accept the track falls below modern adopted standards. However, given the limited number of movements at present and their slow speeds, I am not satisfied that the additional activity would cause harm to its safety. I therefore consider that resurfacing the track, recessing or widening the entrance gate and introducing improved kerb radii are not necessary and are not fairly or reasonably related in scale or kind to the development. Improved sight splays to reflect the speeds of 15mph should be provided though to either side of the access.
39. In relation to this issue there was some inconclusive discussion at the Hearing as to whether or not the track was an adopted unclassified road. However, its status in this regard has had no bearing on my reasoning as there is no basis to consider it will be upgraded.
40. Again, concerning this issue the Appellant argued that Policy DM17 in the DMP was not consistent with the Framework but given my findings that has no bearing on my decision.
41. Accordingly I conclude the scheme does not have a severe or significantly adverse effect on highway safety on either Rogues Lane or the track, and so does not conflict with DMP Policy DM17, *Core Strategy* Policy 18 or the Framework.

Other matters

42. Concern was also raised about drainage, access to water and electricity, and the effect on wildlife. The matter of drainage can be reasonably addressed by condition. I have no basis to consider access to water and electricity cannot be readily resolved, and I was told of no reason why this work could harm wildlife.

Issue d) Matters to outweigh harm

43. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* says any determination must be in accordance with the development plan unless material considerations indicate otherwise.
44. I have found harm is caused by the development to the character and appearance of the area, and to the aims of sustainability as a result of the reliance on the car, giving rise to a conflict with the development plan and the Framework on those points. However, this conflict has to be balanced against a number of factors that weigh in favour of the scheme.

The shortfall in gypsy and traveller provision

45. *The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2017* (the GTANA) says that there was a requirement for 42 pitches in the Borough from 2006 to 31 December 2016, and this requirement was incorporated in *Core Strategy Policy 18*. The Appellant confirmed that over that time planning permission had been granted for precisely that number of pitches. However, when considering this he nonetheless highlighted 4 factors to be taken into account.
46. Firstly, the Appellant contended that HBBC had failed to provide for the 10 pitches on what is known as the Good Friday site, and these should be treated as additional to the 42 pitches identified in the GTANA. The unauthorised occupation of the Good Friday site started in 2009 and, following an appeal, a temporary permission was granted for the use to continue. On its expiration that temporary permission was not renewed, and following enforcement proceedings the occupants have to vacate the land by January 2017. However, as this site was first occupied after the GTANA was prepared, as it can continue to be occupied until after the GTANA has expired, and as the pitches it contains are not amongst the 42 identified by the Appellant with planning permission, the need to provide for its displaced residents does not mean there is now an under provision of sites in the Borough.
47. Secondly, some of the sites for which planning permission has been granted have not yet been implemented. However, I was not told that any of those permissions had expired, and in particular the Council contended work was about to start on Dalebrook Farm. As such, this point does not offer a basis to discount any of the permitted sites.
48. Moreover, the GTANA is now some 10 years old, with its base data being no doubt older. To my mind it is therefore quite probably out-of-date and does not fairly reflect the needs in the area. However, the Appellant said there was in fact a far greater demand for pitches than the GTANA identified but that was supported solely by anecdotal evidence and not by any firm data. Whilst a new GTANA to clarify the situation is in the process of preparation that was not before me. As such, I am not in a position to say whether or not future on-going need in HBBC would be greater or less than what was previously identified in the existing GTANA.
49. Finally, the Appellant contended that the increased demand for pitches in the Borough, plus the displaced residents from the Good Friday site, would mean that the assumed compound growth of 3% per annum in household formation amongst the gypsy and traveller community would be insufficient, and a

greater number of sites would need to be provided than previously anticipated. While that may be so, I am aware that the GTANA has not expired, and so assessing proposals in the light of the 3% compound growth is not relevant.

50. However, putting that aside the Council had identified no pitches as yet for gypsies and travellers into the future. Therefore, even accepting that it had satisfied its current GTANA requirement, it cannot show a 5 year supply of deliverable sites. This to my mind weighs in favour of the Appellant's position.

Personal circumstances

51. I was told that no alternative pitches were available in the Borough, and if these 2 households had to leave this site they would be homeless. Therefore, dismissing these appeals would deprive them of their homes.
52. It was also said that 3 of the residents on site have medical conditions. One of the benefits of a settled base is that the occupants, whether healthy or not, can register with a local doctors' surgery and attend specific hospitals, and so establish a continuity of health care. However, people can also move from one surgery to another, and the evidence before me does not show that there is any fundamental need for the residents to remain in this specific location for treatment. It was said too they would like to undertake further education but again nothing was submitted to demonstrate that this was likely in the foreseeable future. Finally, while one of the residents preaches at a church in Leicester that in itself is not a matter to which I have given significant weight.
53. However, although no children are on the site now, Roseanne and Michael Cash are expecting their first child in October. The *Declaration of the Rights of the Child* says

"the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth".

Similarly, Article 24 of the *Convention on the Rights of the Child* states that parties shall take appropriate measures

"to ensure appropriate pre-natal and post-natal health care for mothers".

Therefore, although this child has not yet been born, in my opinion its best interests are something that should be a consideration to which significant weight is given in my assessment. If I dismissed this appeal the time for compliance would more or less coincide with when this child was expected, thereby resulting in a need to move when the mother and child could be requiring medical attention. This would be to the detriment of the child. Rather, I consider he or she would benefit from a settled base in its early life so as to experience consistent health care.

54. Consequently, the benefits to the unborn child and the homelessness of the residents are factors that weigh in favour of the Appellant's case.

Whether these other considerations outweigh the harm

55. The harm I have identified to the character and appearance of the area has been limited to some degree by the context of the site while the concern about the relationship to services is similarly reduced because of the distances involved.

56. However, the interests of the unborn child, the families' homelessness and the lack of identified gypsy and traveller sites going forward are each matters to which I attach significant weight and, when taken together, they outweigh the harms identified.

57. In this regard I have noted the Claybrooke Parva decision¹, but given the balancing of the issues is dependent very much on the merits of each case it does not lead me to different findings.

Issue e) Temporary permission

58. I have found the failings in the Council's approach to gypsy and traveller provision rests solely on a failure to identify site provision into the future, and I note the PPTS says that

'if a Local Planning Authority cannot demonstrate an up-to-date 5 year supply of deliverable sites this should be a significant material consideration ... when considering applications for the grant of temporary planning permission.'

The Council's emerging *Gypsy and Traveller Allocations Development Plan Document* (the emerging DPD) will no doubt address this concern, although I am unaware as to when that would be adopted. Whilst the Council said it would happen next year that seems unlikely as I was also told the search for sites had only just started, but if work is nonetheless underway it is reasonable to assume its adoption would be in the medium term and the failings identified would then be resolved. I therefore consider a temporary permission for 5 years would be appropriate to allow the completion and adoption of this emerging DPD and for the occupiers of the site then to seek and secure alternative pitches.

59. Such a permission would mean the child would have to leave the site when he or she was nearly 5 years old at the latest, but given their age I consider that would not harm schooling unacceptably and I have no knowledge of any health issues that would be adversely affected by such a move.

60. In coming to this view I appreciate the Appellant was not enthusiastic about a temporary permission, but that does not offer a basis to discount such an option if the planning merits of the case mean it is nonetheless appropriate. Moreover, the mere fact that I do not know when the emerging DPD would be adopted is not a reason to discount a temporary permission as there is inevitably uncertainty over such matters.

Conditions

61. Occupancy of the site should be restricted to those who fall within the definition of gypsies and travellers. I have no basis though to consider those living here should be limited specifically to the existing residents. This is because the aspects of their personal circumstances to which I have given weight, namely their possible homelessness and the benefits to the child, are likely to apply to many gypsy and traveller families. Furthermore, it should be for a temporary period of up to 5 years, with a requirement to re-instate the site afterwards.

¹ Appeal decision APP/F2415/A/14/2222051 (dated 28 October 2014) concerning Welis Close, Claybrooke Parva

62. Having regard to the character and appearance of the locality the extent of the area given over to the residential gypsy and traveller caravan site should be limited and defined, and the development should be restricted to 2 pitches with no more than 4 caravans. There should also be no commercial activity/storage and no parking of vehicles over 3.5 tonnes in weight, but details should be agreed of external lighting, surfacing, fencing and landscaping. It is appreciated that the temporary nature of the permission means that some elements of additional landscaping would be unreasonable as they would not have any appreciable effect by the time the permission had expired. However, planting could nonetheless be introduced either side of the access to offset harm caused by forming the sight splays.
63. With regard to highway safety, sight splays should be provided to the track that reflect the fact that vehicles travel at about 15mph or less. The site contains ample room for parking, but the nature of the track means there should be provision for vehicles to enter and leave in forward gear. A condition should also be imposed to prevent an access to Rogues Lane
64. Finally, having regard to the water environment drainage details should be agreed.

Conclusions

65. Accordingly, I conclude the development causes harm to the character and appearance of the area and has a reliance on the private car, in conflict with *Core Strategy Policy 18*, Policies DM4 and DM17 in the DMP, and the Framework. However, I also find the Council cannot demonstrate a 5 year supply of deliverable sites for gypsies and travellers, and dismissing the appeal would have an adverse effect on the residents and the unborn child by making them homeless and making settled medical care more difficult. These factors together comprise material considerations that outweigh the harm and justify a temporary planning permission. Therefore I conclude that the appeal should succeed and temporary planning permission will be granted.

Decision

66. The notice is corrected by the deletion of paragraph 3 and its replacement with 'Without planning permission the unauthorised change of use of land from agriculture to a mixed use comprising a residential gypsy and traveller caravan site and the keeping of horses'.
67. Subject to this correction the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the change of use of land from agriculture to a mixed use comprising a residential gypsy and traveller caravan site and the keeping of horses at land north-west of Cold Comfort Farm, Rogues Lane, Hinckley, Leicestershire LE10 3DX referred to in the notice, subject to the following conditions:
- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of *Planning policy for traveller sites* (dated August 2015).

- 2) There shall be no more than 2 pitches on the site. Neither pitch shall, at any time, contain more than 2 caravans or more than one static caravan (with a caravan being as defined in the *Caravan Sites and Control of Development Act 1960* and the *Caravan Sites Act 1968*).
- 3) There shall be no commercial activities undertaken at the site, including the external storage of goods or materials not ancillary to the residential use or the keeping of horses, and no vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision. At the end of this period the use hereby permitted shall cease.
- 5) Within 3 months of the date of this decision details shall be submitted to the Local Planning Authority for its written approval of a scheme for the restoration of the land at the end of the period stated in Condition 4 above together with a timetable for the undertaking of those works. At the end of that period, the land shall be restored in accordance with the approved scheme and the approved timetable.
- 6) Within 3 months of the date of this decision details shall be submitted to the Local Planning Authority of the part of the site to be used for the residential gypsy and traveller caravan site. This part shall not exceed 0.2ha. Caravans shall thereafter be sited in that part of the site only and no caravans shall be sited on any other part of the site.
- 7) Within 3 months of the date of this decision details shall be submitted to the Local Planning Authority of the external lighting, fencing, drainage, landscaping and hard surfacing, together with a timetable for the implementation of each of these elements, and those works shall then be undertaken in accordance with the approved details and timetables only.
- 8) Within 3 months of the date of this decision sight splays of 2.4m by 17m shall be provided to either side of the site access to the track and thereafter kept clear of any obstruction greater than 0.6m in height above the carriageway of the track.
- 9) There shall at all times be provision on site for vehicles to enter and leave the site in forward gear.
- 10) Vehicular access to the residential gypsy and traveller caravan site shall be from the track only.

J P Sargent

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr S Clarke	Planning Consultant
Mr J Hurlstone	Highways Consultant
Mr A Smith	Father-in-law of the Appellant
Mr A Statham	Planning Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Allison	Planning and Enforcement Officer with HBBC
Mr S Hill	Assistant Engineer with Leicestershire County Council

INTERESTED PERSONS:

Councillor D Bill	County Councillor for Hinckley Ward
Councillor D Cope	Borough Councillor for Trinity Ward
Mr S Griffin	Local resident
Mr C McManus	Local resident
Mr L Wiggins	Planning Consultant representing Mr & Mrs Griffin, Mr McDermott & Mr McManus

DOCUMENTS

- 1 Speed Survey submitted by Mr Hill
- 2 Plan of route through from Rogues Lane to Normandy Way submitted by Mr Hill
- 3 Accident record on Rogues Lane submitted by Mr Hill
- 4 Email submitted to the Planning Inspectorate by Mr Hill concerning the status of the track (dated 17 June 2016)
- 5 Email submitted to the Planning Inspectorate by Mr Hill concerning the status of the track (dated 18 July 2016)
- 6 Email submitted to the Planning Inspectorate by the Council informing of the adoption of the *Site Allocations and Development Management Policies DPD* (dated 21 July 2016)
- 7 Email submitted to the Planning Inspectorate by Mr Allison concerning the newly adopted policies (dated 25 July 2016)
- 8 Extract from *Guidelines for Providing Journeys on Foot* submitted by Mr Hurlstone
- 9 Letter submitted to the Planning Inspectorate by Mr Statham concerning the medical state of Martina, Alwyn & Roseanne Smith (dated 25 September 2015)
- 10 Letter submitted to the Planning Inspectorate by Mr Statham concerning the newly adopted policies (dated 26 July 2016)
- 11 Appeal decision APP/F2415/A/14/2222051 (dated 28 October 2014) concerning Wells Close, Claybrooke Parva, submitted by Mr Wiggins

Appeal Decisions

Hearing and site visit held on 20 November 2012

by Clive Kirkbride BA(Hons) DipTP MSc MRTPI

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

Decision date: 8 March 2013

Appeal Refs: APP/V3310/C/12/2179931 and 2179932

Land at OS Field No. 1263 to west of Yew Tree Farm, Tarnock, Axbridge, Somerset, BS26 2SA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Paddy Maguire and Mrs Elizabeth Maguire (née Connors) against an enforcement notice issued by Sedgemoor District Council.
- The Council's reference is E03/11/c.
- The notice was issued on 9 July 2012.
- The breach of planning control as alleged in the notice is change of use of the land to use as a caravan site.
- The requirements of the notice are to discontinue the use of the land as a caravan site and remove all caravans brought onto the land in connection with the use enforced against.
- The period for compliance with the requirements is 6 months.
- Appeal 2179931 is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal 2179932 is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. The appeal is not fee exempt and since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of Decision: The appeals are allowed, the enforcement notice is quashed and planning permission is granted in the terms set out in the Formal Decision.

Appeal Ref: APP/V3310/A/12/2179905

The Old Market Garden, Bridgewater Road, Tarnock, Axbridge, Somerset, BS26 2SA

- 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 Patrick Maguire against the decision of Sedgemoor District Council.
- The application Ref 03/12/00004, dated 29 March 2012, was refused by notice dated 25 May 2012.
- The development is the siting of a mobile home for one British Traveller family and a touring caravan for nomadic use only.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision.

Procedural matters

1. At the hearing the appellant submitted a signed and dated unilateral undertaking relating to the appeal development's off-site impacts on children's outdoor play space and outdoor sports facilities. The Council confirmed that this addressed its concerns on such matters and, accordingly, withdrew its fourth reason for refusing planning application Ref 03/12/00004. I have taken these matters into account when arriving at my decisions.

2. Although the addresses are different I am satisfied that the land subject to the notice and the appeal site are one and the same. I have corrected the post code used in the address on the planning application form.

Background including Traveller status

3. The appellants form part of the Irish travelling community. Mr Maguire earns his living from antiques and dealing in horses although, with three children, he no longer travels for work as often or as far as he used to. The appellants' status as Travellers for the purposes of Annex 1 of the Government's *Planning policy for traveller sites* (Traveller Policy) is not in dispute and, from the evidence before me, I am also satisfied as to this matter.
4. I understand that the appellants and their children moved onto the land over a bank holiday weekend, prior to which they were living on the roadside. The land is situated between The Cott and Yew Tree Farm in the hamlet of Tarnock and adjoins the main A38. There is an extant but unimplemented permission for stables on the land (*Document 8*) and, immediately to the south, permission for stables on an adjoining area of land. If their appeals are successful I understand that the appellants intend acquiring this from their neighbours and constructing the stable block so that their continuing residential occupation of the appeal site would go hand in hand with the equestrian use of the adjoining land.

The deemed planning application, ground (a) and s78 appeals

Main issues

5. I consider these to be as follows: The sustainability credentials of the appeal development including locational factors; the effect of the appeal development on highway safety; the flood risk to the development; the impact of noise on living conditions of the occupants and whether other material considerations outweigh any harm identified.

Reasons

Sustainability

6. Tarnock is a small hamlet on the A38 with few if any local services. An exception is a bus service with 'hail and ride stops' within easy walking distance of the appeal site. However, the service is infrequent and I am satisfied that the appellants would make the majority of their journeys for social, domestic and pleasure purposes by car. Having said that, I note that the youngest child attends Yew Trees Nursery which is next door to the appeal site.
7. Nevertheless, relevant development plan policies and the Government's *National Planning Policy Framework* (The Framework) and Traveller policy anticipate that traveller sites are likely to be located in rural and semi-rural areas. Such sites should, therefore, be acceptable, in principle, providing that they are within reasonable, not necessarily walking, distance of local services and facilities and that they do not dominate the nearest settled community.
8. Policy B, paragraph 11 of the Traveller policy also advises that traveller sites should be sustainable economically and socially, as well as environmentally, indicating that sustainability cannot just be considered in terms of travel distances to the nearest local services and facilities. Mr Maguire's business

interests require him to travel extensively, irrespective of where he lives and the appeal site provides him a settled base for doing this.

9. The fact that the appellants intend to link their residential occupation of the site with the permitted equestrian use of the adjoining land is also a material consideration as it would reduce their need to travel. However, this can be afforded little if any weight at this stage. Nevertheless, there are other distinct advantages of the appellants having a settled base, including a reduction in possible environmental damage caused by moving to another unauthorised site, enabling the family to access medical facilities and ensuring that the children can attend school on a regular basis.
10. When considering sustainability in these broader terms, not just in terms of travel distances, I consider that the location of the appeal site is not unsustainable and find that it is reasonably located in relation to a number of surrounding larger villages and towns. Therefore, I conclude that there is no 'in principle' objection to the appeal site on sustainability grounds or any material conflict with Policy D8 (Gypsies, Travellers and Travelling Show People) of the Sedgemoor Core Strategy (CS) and Policy 36 (sites for Gypsies and Travelling people) of the Somerset and Exmoor National Park Joint Structure Plan Review (SP). I have also had regard to CS Policy S1 (spatial strategy for Sedgemoor) and SP Policies STR1 (sustainable development) and STR6 (development outside towns, rural centres and villages).
11. Policy B, paragraph 11 of the Traveller policy, however, also requires that sites should avoid placing undue pressure on local infrastructure and that local development plan policies should provide for a proper consideration of the effect of local environmental quality on the health and well-being of any travellers when considering the suitability of sites. I discuss these matters below.

Highway safety

12. Notwithstanding the County Highway Authority's (CHA) concerns about visibility when exiting the appeal site onto the A38, the fact remains that there is an extant, unimplemented permission to develop the appeal site for stables, as referred to above. I heard that the access arrangements currently in place are as approved by the Council to serve that development.
13. At the hearing, the Council acknowledged that the approved stables could be used for commercial livery purposes. On that basis, the Council and the CHA both now accept that the current use of the appeal site as a single pitch traveller site results in little, if any, intensification of use of the existing access. It was also acknowledged that the records demonstrate that there have been no traffic incidents directly attributable to the use of appeal site access. This may be due to the fact that drivers generally appear to observe the 50 mph speed limit and heed advisory warnings to slow down when approaching the bends and minor road junctions to the east and west of the appeal site.
14. If the appellant and his family were required to vacate the site, I am satisfied that there is a real likelihood of the extant permission to construct stables on the land being implemented. In these circumstances, and should those stables be let for commercial livery stables, which is also a realistic possibility, the CHA accepted that such a use would generate significantly more daily vehicular movements than the appeal development.

15. At the hearing, the appellant offered to increase the width of the existing bell-mouth radius at the junction with the A38 and was willing to accept this as a condition of any permission. The main parties agreed that this would make it easier for towing vehicles to access and exit the site entrance without needing to cross over into the opposite carriageway. The appellant also tabled a letter from his neighbour at Yew Trees Nursery (*Document 2*) giving him permission to trim the boundary hedge along the roadside. Whilst I cannot give this letter any great weight the parties agreed that this would improve visibility to the east of the site entrance.
16. I conclude that the appeal development would not result in any material harm to highway safety. Therefore, there is no conflict with CS Policies D9 (sustainable transport and movement) and D10 (managing the transport impacts of development) or SP Policy 49 (transport requirements of new development).

Flood risk

17. Whilst the Environment Agency (EA) considers that the appellant's flood modelling is not as accurate as it could be, it emerged that the only issue now in dispute between it and the appellant is access to, and egress from, the A38 during an extreme flood event. However, it was agreed that, even in those situations, flooding represented a "very low hazard" and that any inundation of the appeal site as a result of the River Axe backing up would be by slow moving, shallow water.
18. It was further agreed that these concerns could be addressed by appropriate mitigation, as required by the Exception Test set out in The Framework's *Technical Guidance on Flood Risk (TGFR)*. This would essentially take the form of siting the mobile home at least 50m back from the A38 and by ensuring that its finished floor level was 6-700mm above the extreme flood level. Both measures are readily achievable and could be the subject of conditions.
19. However, the Council remains of the view that the appellant has failed to demonstrate that the appeal site meets the Sequential Test set out in the TGFR. This aims to steer highly vulnerable development, including caravans, to areas with the lowest probability of flooding and the Council considers that the appellant should have looked for a site away from the extensive areas of floodplain in the district. However, it acknowledged during the hearing that, outside key rural settlements, such sites would be likely to be within the Mendip Hills Area of Outstanding Natural Beauty and would be likely to raise different concerns.
20. It also remains the case that the Council is unable to suggest an alternative site for the appeal development and does not have a five year supply of traveller sites. Paragraph 8 of the TGFR indicates that where local planning authorities have been unable to allocate all proposed development in accordance with the Sequential Test, taking account of the flood vulnerability category of the intended use, it will be necessary to increase the scope of the Strategic Flood Risk Assessment to provide the information necessary for application of the Exception Test.
21. In the absence of any alternative sites the appellant has submitted a site-specific flood risk assessment which demonstrates that appropriate measures can be put in place to make the appeal development safe without increasing

flood risk elsewhere. Therefore, I conclude that there is no material conflict with CS Policy D1 (managing flood risk) or the advice and guidance set out in The Framework.

Noise

22. Paragraph 123 of The Framework refers to the need to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development. The A38 is a busy road carrying substantial volumes of traffic, including heavy goods vehicles. The Council submits that, based on the appellant's own report, noise levels exceed the daytime 'reasonable' internal noise limits and maximum night-time noise levels set out in BS 8233:1999: *Sound Insulation and Noise Reduction for Buildings*. The Council also points to the data failing to mention or make reference to any noise levels that may affect occupiers whilst using outdoor living areas.
23. Based on the construction of the existing mobile home the appellants accept that the Council's concerns about internal noise levels were justified. However, suitable measures were proposed as part of the original noise report dated 30 May 2012 which demonstrated that with appropriate mitigation the predicted internal equivalent noise levels would be within the 'Reasonable' range of BS 8233:1999 of 40 $L_{Aeq(16hr)}$ and 35 $L_{Aeq(8hr)}$ and the predicted night-time maximum noise levels in the Bedroom, L_{Amax} , within the BS 8233:1999 criteria of 45 decibels (A).
24. The appellants' supplementary noise report (*Document 1*) relates to the provision of a suitable outdoor amenity area where the external equivalent noise levels do not exceed the World Health Organisation (WHO) guideline values for "serious annoyance" of 55 dB $L_{Aeq(16hr)}$. This would be achieved by siting the existing mobile home parallel, rather than end-on, to the A38, sealing any gaps beneath it with a layer of rigid board and installing 3.0m deep, 1.8m high acoustic barriers at both ends of the mobile home. Noise modelling demonstrates that this would create a rear amenity area of about the same area as the mobile home where the equivalent noise levels fall below the WHO criteria for "serious annoyances."
25. However, rotating the mobile home as proposed would result in a different façade being exposed to road traffic noise, resulting in higher noise levels affecting the bedroom but marginally reduced levels in the living room area. *Document 1* also provides revised internal ambient noise levels and necessary mitigation to achieve the BS 8233:1999 criteria for the amended siting. This requires upgrading the existing glazing to the bedroom and living room windows to either a single, double or secondary glazed unit with at least one pane of 10mm glass with no unattenuated vents, installed in frames with a commensurate level of sound insulation performance.
26. As it would be a relatively straightforward matter to implement these various noise attenuation measures, which could be secured by means of an appropriate condition, I conclude that the appeal development would not result in noise levels giving rise to significant adverse impacts on the health and quality of life of the occupants. Therefore, the appeal development complies with the advice and guidance set out in The Framework in relation to such matters.

Other material considerations

27. It is not in dispute that not only does the Council not have five year supply of sites but that there is a current shortfall of about 18 pitches in the district. The Council suggested that there were several alternative sites with vacant pitches available but I heard that these are owned by Roma families. It is a matter of fact that Roma Gypsies and Irish Travellers do not generally mix and the owners of those sites would not be prepared to sell land to the appellants or allow them to occupy a vacant pitch. In reality, therefore, I am satisfied that there are no alternative pitches available to the appellants. I afford these matters significant weight in the overall balancing exercise.
28. Also, if the appeals were to fail the appellant and his family would be made homeless because of the extant enforcement notice. Not only would this amount to interference with their rights under Article 8 of the European Convention on Human Rights but it would not be in the best interests of the children, who are all well settled in local schools (*Document 3*). I give these matters considerable weight as well.
29. On the other hand, the harm identified to the health, safety and well-being of the occupants of the appeal development is relatively limited and capable of mitigation which can be secured by appropriate conditions. At the hearing Mr Maguire also offered to upgrade the existing access to the site, even though this has been constructed as approved to serve a permitted equestrian use capable of generating significantly more vehicular movements than the appeal development.

Overall conclusions on the deemed planning application, ground (a) and s78 appeals.

30. Taking these other material considerations into account and the conditions which could be imposed, I conclude that seeking to remove the appellant and his family from the notice land would not be a proportionate response to the limited degree of harm caused by the appeal development. Therefore, the appeals succeed and I shall grant planning permission for the development. In the circumstances, there is no need for me to consider the enforcement appeals on ground (g).

Other matters and conditions

31. The Council is satisfied that the appellants' submitted unilateral undertaking addresses its concerns in relation to the appeal development's off-site impacts. Nevertheless, in view of my overall conclusions, I am required to assess the need for the undertaking against the tests set out in paragraph 204 of The Framework.
32. There is a large shortfall in children's playing space in the parish of Badgworth and the existing provision is in need of upgrading and it is likely that the appellants' children would use the existing local play space. I am satisfied that the requirement for the level of contributions sought by the Council, which would be spent on projects including enhancing the parish green at Biddisham and the area adjacent to Badgworth Schoolrooms, meets the tests set out in The Framework. Likewise with respect to the contributions required to address the shortfall of outdoor space for sport in Badgworth and upgrade the existing stock within the Cheddar Valley Cluster Group generally, of which Badgworth is a member.

33. Therefore, I am satisfied that the unilateral undertaking is necessary to make the development acceptable in planning terms, that it is directly related to it and is fairly and reasonably related in scale and kind, as required by the three tests set out in The Framework.
34. I have considered the conditions suggested by the Council in light of the advice set out in Circular 11/95 and the discussion which took place during the hearing. There is a need for a condition restricting occupancy of the site to Gypsies and Travellers as permission is being granted on this exceptional basis. There is a need to restrict the number and type of caravans stationed on the land and to prevent the site being used for commercial purposes or the keeping of large vehicles, in the interests of appearance and to define the nature of the permission sought and granted. There is a need for a site layout and development scheme to be submitted for approval and implemented as approved, including details of landscaping and appropriate aftercare, in the interests of appearance; implementation of recommendations relating to flood risk and noise mitigation measures, in the interests of the health, safety and well-being of occupants of the appeal development, and widening the bell-mouth radius at the site entrance, in the interests of highway safety.
35. There is no need for the standard implementation condition suggested by the Council or for those relating to landscaping and aftercare, at least not as worded, as the development has already been carried out. I have amended the wording of the other conditions to be imposed as necessary, so that these equate to, or more closely follow, the relevant model conditions, in the interests of precision and clarity.

Formal Decisions

APP/V3310/C/12/2179931 and 2179932

36. The appeals are allowed, it is directed that the enforcement notice be quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at OS Field No. 1263 to west of Yew Tree Farm, Tarnock, Axbridge, Somerset, BS26 2SA, as shown on the plan attached to the notice, for use as a caravan site subject to the conditions set out in the attached Schedule.

APP/V3310/A/12/2179905

37. The appeal is allowed and planning permission is granted for the siting of a mobile home for one British Traveller family and a touring caravan for nomadic use only at The Old Market Garden, Bridgewater Road, Tarnock, Axbridge, Somerset, BS26 2SA in accordance with the terms of the application, Ref 03/12/00004, dated 29 March 2012, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

C.S. Kirkbride

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of *Planning policy for traveller sites*.
- 2) No more than 2 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 1 shall be a static caravan) shall be stationed on the site at any time.
- 3) Any material change to the position of the static caravan, or its replacement by another caravan in a different location, shall only take place in accordance with details submitted to and approved in writing by the local planning authority.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 6) There shall be no obstruction to visibility greater than 900mm above the adjoining road level within the visibility splays shown on Drawing No. 2135/01e approved under permission Ref 03/10/00082.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days, or such longer period as considered reasonable of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for any external lighting; widening of the bell-mouth radius at the site entrance; the internal layout of the site, including the siting of caravans, hardstanding, access roads, parking and amenity areas; implementation of the recommended flood risk and noise mitigation measures, and proposed tree, hedge and shrub planting, including details of species, plant sizes, proposed numbers and densities and aftercare (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State;
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 8) The site development scheme referred to in condition 7 above shall include provision for the existing static caravan and any replacement caravan to be sited at least 50m from the A38 in Flood Zone 2 with a finished floor level set no lower than 7.1m above Ordnance Datum.
- 9) The site development scheme referred to in condition 7 above shall include provision for implementation of the detailed internal and external noise attenuation measures recommended in the report by Acoustic Consultants Ltd dated 07/11/12 including rotation of the existing static caravan and erection of acoustic fences as shown on Drawing No. 2135/03/LP02.

APPEARANCES

FOR THE APPELLANT:

Angus Murdoch, BA(Hons) MA MRTPI	The appellants' planning consultant
Paddy Maguire	One of the appellants
Jeremy Hurlstone, BSc(Hons) MCIHT CMILT	The appellants' highways consultant
Ian Walton, BSc(Hons) MSc MICE CEng	The appellants' flooding consultant
Blake Lucas, BEng(Hons) MIOA	The appellants' noise consultant
Nigel Gittins, BAHons(Arch) BArch	The appellants' original agent and architect

FOR THE LOCAL PLANNING AUTHORITY:

Colin Arnold, BA(Hons) PGDipTPS	Senior Planning Officer, Sedgemoor District Council
Jonathon Fellingham, BA(Hons)	Senior Planning Liaison Officer, Somerset County Council
Ray Fox, BSc(Hons) DipAcoustics	Environmental Protection Officer, Sedgemoor District Council
Rebecca Randall	Planning Liaison Officer, Environment Agency

INTERESTED PERSONS:

Mrs S M Hayes	Chair of Badgworth Parish Council
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DOCUMENTS

- 1 Revised noise control report by Acoustic Consultants Ltd dated 07/11/12 (submitted for the appellants)
- 2 Letter from the proprietor of Yew Trees Nursery dated 26/10/12 relating to her roadside boundary hedge (submitted for the appellants)
- 3 Letters from two local educational establishments confirming regular attendance and general progress of the appellants' children since enrolment (submitted for the appellants)
- 4 Copy of *Charmaine Moore vs SSCLG and London Borough of Bromley* [2012] EWHC 3192 (Admin) dated 16/11/12 (submitted for the appellants)
- 5 Copy of signed Unilateral Undertaking dated 16/11/12 (submitted by the Council)
- 6 Supplementary hearing statement by Ian Walton of Bureau Veritas dated October 2012 (submitted for the appellants)
- 7 Letter from Rebecca Randell, Planning Liaison Officer, Environment Agency dated 06/11/12 commenting on Ian Walton's hearing statement dated October 2012 (submitted by the Council)
- 8 Copy of planning permission Ref 03/10/00082 dated 09/02/11 with approved Drawing No. 2135/01e referred to in condition No. 5 (submitted for the appellants)

PLANS

- A Drawing No. 2135/03/LP02 showing proposed location of rotated mobile home and acoustic fencing (submitted for the appellants)

PHOTOGRAPHS

- 1,2 Aerial and oblique views of the Rooksbridge Gypsy and Traveller site acquired by the Council showing earth bund with acoustic fence atop constructed to attenuate noise from adjoining M5 motorway (submitted for the appellants)

Appeal Decisions

Hearing held on 4 September 2012

Site visit made on 4 September 2012

by Claire Sherratt DipURP MRTPI

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

Decision date: 30 October 2012

Springdale Farm, Bondhouse Lane, Whitestone, Exeter, Devon, EX6 7SD

- The appeals are made by Mr Clarence Ware against Teignbridge District Council.

Appeal A: APP/P1133/C/12/2175641

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The Council's reference is 12/00026.
 - The notice was issued on 4 April 2012.
 - The breach of planning control as alleged in the notice is without planning permission, change of use of land from an agricultural use to a mixed use for agriculture and the stationing and residential occupation of five residential caravans / mobile homes shown in the approximate positions edged blue on the plan attached to the notice.
 - The requirements of the notice are to:
 - Stop using the land for the siting of mobile homes / caravans used for residential purposes; and
 - Remove the caravans / mobile homes shown in the approximate positions edged blue on the attached plan, together with all resulting debris from the land.
 - The period for compliance with the requirements is 12 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
 - An application for planning permission is deemed to have been made under S177(5) of the Act as amended.
-

Appeal B: APP/P1133/A/12/2173476

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The application Ref 11/03176/FUL, dated 22 September 2011, was refused by notice dated 22 December 2011.
 - The development proposed is use of land for the siting of 2 mobile homes and 3 touring caravans for residential occupation as a single gypsy family group.
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Procedural Matters

- The use of the land is for residential purposes rather than the stationing of caravans. It was therefore agreed at the hearing that requirement (1) of the notice would be more precise if it simply required the residential use of the land to cease. Requirement (2) remains to ensure that the caravans are removed.

Decisions

Appeal A: APP/P1133/C/12/2175641

- The enforcement notice is corrected by the deletion of the words "for the siting of mobile homes / caravans used" in requirement 1 of the notice. Subject to
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this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the change of use of land from an agricultural use to a mixed use for agriculture and the stationing and residential occupation of five residential caravans / mobile homes on the land shown edged black on the plan attached to the notice, subject to the conditions set out in Annex 1.

Appeal B: APP/P1133/A/12/2173476

3. The appeal is allowed and planning permission is granted for use of land for the siting of 2 mobile homes and 3 touring caravans for residential occupation as a single gypsy family group at Springdale Farm, Bondhouse Lane, Whitestone, Exeter, Devon, EX6 7SD in accordance with the terms of the application, Ref 11/03176/FUL, dated 22 September 2011, and the plans submitted with it, subject to the conditions set out in Annex 1.

Main Issues

4. The main issues are:
 - (a) whether the appeal site is situated in a sustainable location;
 - (b) the effect of the development on highway safety;
 - (c) the need or otherwise for additional sites to accommodate gypsies and travellers generally; and
 - (d) the personal needs of the occupiers for a site and whether they meet the definition of a gypsy and traveller for planning purposes.

Planning Policy

5. The Development Plan includes the saved policies of the of the Devon Structure Plan 2001–2016 (SP) adopted in 2004 and the saved policies in the Teignbridge Local Plan 1989 – 2001 (LP) adopted in 1996. The National Planning Policy Framework ('the Framework') was issued earlier this year together with the Planning Policy for Traveller Sites (PPTS). Both are material considerations in the determination of these appeals. At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as the golden thread running through both plan-making and decision-taking.
6. SP Policy ST1 states that sustainable development objectives should be achieved by developing a sustainable transport system that is accessible, sustainable, integrated, efficient and safe in both urban and rural areas. SP Policy TR10 proposes that development should not adversely affect the road network in terms of traffic and road safety, and access to the network should not detract from or conflict with the function of the route. These policies broadly accord with the Framework and so the weight that can be afforded to them is not diminished as a result of the Framework.
7. Policy H7 of the Teignbridge Local Plan (LP) resists new residential development in the open countryside outside settlements except in certain circumstances none of which relate to accommodation to meet the needs of gypsies and travellers. Policy H8 concerns affordable housing. The LP does not include a policy relating to the needs of gypsies and travellers. The Framework is clear that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of

doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted. I consider that would be applicable in this case, given that the LP is silent on providing for the accommodation needs of gypsies and travellers.

8. The Council has produced and carried out consultation on a Core Strategy Development Plan Document setting out the Council's Preferred Options (Jan 2012) (CS). Policy WE6 of this document is specific to gypsy and traveller pitches. It stipulates that planning applications for private gypsy and traveller pitches in the open countryside will be permitted provided that a number of criteria are met. These include that there is (a) insufficient land which has consent or is allocated to meet the needs of the community over the next 5 years; and (b) the proposed site is within 30 minutes travel by means of public transport, walking and / or cycling of a hospital and secondary school. I consider this emerging policy can be afforded significant weight particularly in the absence of any adopted policy. The supporting text confirms that it is the Council's intention to ensure that sufficient pitches are provided within the urban extensions to meet the identified need. The need for pitches and sites is to be re-assessed. A 195 hectare strategic site at Houghton Barton is identified within the CS document to provide a sustainable, high quality mixed-use development including gypsy and traveller pitches.
9. It is now the Council's intention to produce a Local Plan. The Local Development Scheme timetable anticipates adoption in December 2013¹.

Reasons

10. The appeal site comprises the yard area of a former farm, situated in open countryside and designated as an Area of Great Landscape Value. Various agricultural buildings surround the site. There is no dispute between the main parties that the site is reasonably well screened. The caravans are occupied by the appellant and his partner, Mrs Calloway; his brother Brian Ware together with his partner and Jamie and Marie Westcott (the appellant's nephew) and their young child.
11. The appeal site is situated approximately 0.5 km south of the junction with the C50. Bondhouse Lane is a public highway for a distance of approximately 210m beyond which it mainly comprises an unmade road reducing in width to approximately 3m. A bridleway runs from the C50 along the line of Bondhouse Lane and past the site access.

Sustainable location

12. The site is situated in open countryside where new residential development would normally be resisted except in those circumstances set out in LP Policy H7. Whilst the PPTS does not seek to exclude sites in open countryside, it stipulates that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
13. The Council maintains that the site is poorly related to services and facilities. It is some 3 km from the edge of the city of Exeter and around 6.9 km from central Exeter. The nearest village of Tedburn St Mary has limited facilities. The

¹ Document 3.

nearest shop is situated at a mobile home park some 3.4 km away. There is also a small post office within the shop. The bus timetable² confirms that the nearest bus stop is outside 'Ye Old Travellers Rest' Public House in Whitestone which is situated on the C50 not far from the junction with Bondhouse Lane. The service runs regularly between Exeter and Newquay, taking approximately 30 minutes to Exeter City Centre bus station and only some 13 minutes bus ride to Exeter College. I acknowledge that it would be necessary to walk to or from the bus stop as part of the journey. I heard that it is possible to cycle from the site to the nearest hospital and secondary school well within the 30 minutes referred to in emerging CS Policy WE6.

14. It seems to me that the location of the site would not conflict with the Council's emerging policy which gives an indication of the distances and accessibility to services and facilities that the Council is likely to find acceptable. Furthermore, sustainability is not simply a consideration of distances to services and facilities. PPTS requires that local planning authorities ensure that traveller sites are sustainable economically, socially and environmentally. A settled base provides continuity in terms of accessing health and education. In addition a settled base reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment. The Council could not refer to any alternative sites that would be available to the site occupiers. It is therefore likely that the occupiers would be living on the road should the appeal fail. As such the benefits arising from a settled base are important considerations of considerable weight in this case.
15. I acknowledge that the location of the site is not ideal in terms of accessibility due to the unmade nature of the track which is relatively steep and provides the only access to the site. However, taking all matters in the round and particularly having regard to the requirements in emerging Policy WE6, I take the view that the development is not an unsustainable form of development.

Highway safety

16. The appeal site is accessed via Bondhouse Lane which forms the minor arm of a priority T junction with the C50 Tedburn Road. The development would result in an increase in the volume of traffic entering and leaving the C50, a Class C County Route Road, through the junction with Bondhouse Lane. The junction with Bondhouse Lane and the C50 does not provide adequate visibility to the west (looking left) when leaving Bondhouse Lane to meet the requirements of Design Manual for Roads and Bridges (DMRB)³; indeed it falls well short of these requirements as visibility is obstructed by the existing perimeter fencing to a vehicle sales garage at this point. However, at a reduced 'x' distance of 2.0 (rather than 2.4 m) the impact of the fence is significantly reduced, enabling the majority of the near traffic lane to be visible to the emerging driver.
17. I recognise that there is potential for conflict between vehicles leaving the junction turning left and on-coming vehicles overtaking on the C50. From my own observations on site, although feasible, it appears unlikely that this overtaking manoeuvre would occur with any frequency as it would involve overtaking on a blind bend. Visibility to the right is excellent allowing vehicles

² Document 2.

³ Based on anticipated 85th percentile speeds of traffic to be 50mph a visibility splay of 2.4m X 160m would be required.

to edge out slowly if necessary and allowing on-coming vehicles to see cars waiting at the junction or already joining the carriageway.

18. Manual for Streets 2 (MfS2) is clear that DMRB standards should not be applied rigidly and that MfS2 is the starting point for any scheme affecting non-trunk roads. Furthermore, I am mindful that permission currently exists for infilling to restore a quarry site to agricultural use adjacent to the appeal site. Although the number of vehicle trips are not restricted, it is understood that these operations generate around 20 two way vehicle movements per day by 20 tonne six wheel tipper vehicles. Operations are restricted to between the hours of 8am and 5pm Monday to Friday. In addition, Bondhouse Lane also provides a secondary access to the vehicle sales premises close to the junction and a car breakers yard. Despite this use of the junction, no recorded accidents have occurred at the junction in the past 5 years.
19. I do not consider the increase in traffic generated by 3 pitches occupied by one extended family, whom are likely to share some trips, would be so significant to prejudice highway safety along this road. Furthermore, the appellant would still use the junction as it would be necessary for him to visit the site during the day not only to oversee the restoration operations but also to care for his horses.
20. To conclude on this issue, I do not consider that the development adversely affects the road network in terms of traffic and road safety, and access to the network does not detract from or conflict with the function of the C50 route. I find no conflict with SP Policy TR10.

Need for additional sites for gypsies and travellers

21. The Council, together with neighbouring authorities commissioned a Gypsy and Traveller Accommodation Needs Assessment⁴ (the GTAA) which was published in 2006 and identified a need in the district for some 65 additional pitches between 2006 and 2011. Of these only 34 permanent pitches have been provided leaving a shortfall of some 31 pitches. The Council accepts that there is a 'significant' shortage of suitable sites within the district. This need has not been met within the timescales set out in the GTAA or indeed the timescales envisaged in the now revoked Circular 01/2006. Indeed the Council has no policy in its adopted LP that would have helped to ensure the provision of sites. The Council has failed to meet the extent of need which was identified in the GTAA some 6 years ago. It is unlikely that the Council's new Local Plan will be adopted before December 2013. I heard that a Master Plan will be prepared for Houghton Barton. It was not clear to me how this would address the current shortfall of sites or the timescales involved for producing the Master Plan.
22. There is a clear and unmet need for additional pitches to accommodate gypsies and travellers that is unlikely to be met for sometime. This is a compelling material consideration in favour of the appeal.

Personal needs of the site occupiers for accommodation and gypsy status

23. I am aware that in a previous appeal concerning the appellant, the Inspector was not satisfied that the appellant met the definition of a gypsy and traveller for planning purposes. I am not aware of the evidence before that Inspector although I understand the appellant was working on a part time basis for

⁴ Devon-wide Gypsy and Traveller Housing Needs Assessment (November 2006).

Torquay Council. The definition remains the same in the PPTS as it was in Circular 01/2006. There is no doubt about the ethnicity of the occupiers of the site and their travelling background.

24. The appellant works on the landfill operation but still travels for about 3 to 4 months of the year. He deals in horses and wagons and travels to the various horse fairs around the country. I heard that he owns some 20 – 30 horses including breeding and youngstock. Brian Ware also works on the landfill operation when he is needed and travels to the horse fairs to trade in horses. I heard that Jaime is unable to travel as much as he needs to care for Marie who receives care from the Royal Devon and Exeter Hospital for Cystic Fibrosis. Her condition requires a daily programme of extensive and time consuming treatments, prescribed and regularly monitored by the Hospital⁵. Access to appropriate medical facilities for Marie is therefore particularly important. It is also important that the family group remains together as Mrs Calloway also helps to care for Marie. I am satisfied, based on the evidence I heard that the occupiers of the site would meet the definition of a gypsy and traveller for planning purposes.

Conditions

25. A number of conditions were discussed at the hearing that may be appropriate should the appeal succeed. I consider that a personal condition would be necessary in light of my findings on highway matters in relation to shared vehicle trips and the necessity of the appellant to visit the site in any event. I also consider it prudent to add a condition restricting the occupation of the site to persons meeting the definition of gypsies and travellers as circumstances can change and it is the issues relevant to gypsies and travellers that justifies planning permission.
26. A scheme of passing places is proposed along the private section of the lane. It is necessary to impose a condition requiring the works to be carried out to ensure no conflict would arise between users of the bridleway and the development. Notwithstanding the description of development, it was agreed that any permission should allow for 3 pitches each containing one mobile home and 1 touring caravan. Various details should be agreed to ensure a satisfactory form of development. As the development has commenced a condition requiring details to be submitted, approved and then implemented must be worded in such a way as to ensure that the use of the site should cease should the various details not be submitted or approved. Details and schemes to be agreed include the site layout, including the siting of caravans, parking and turning facilities, details of landscaping, any external lighting and boundary treatments. In light of representations concerning drainage matters I consider it prudent to require details of the means of foul and surface water drainage to be agreed. No commercial activities, including storage should be permitted. Given the proximity of the site to land reclamation works I agree that an assessment of any contamination and any necessary remedial works is sought.

Conclusions

27. Although I have some concerns about the nature of the access track to the site, overall I find that the site is not situated in an unsustainable location and

⁵ Document 5.

would not compromise highway safety. There is an existing unmet need for additional pitches in the district. For these reasons, I conclude that the appeals should be allowed. As Appeal A succeeds on ground (a), the appeal on ground (g) does not need to be considered.

Claire Sherratt
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch	Murdoch Planning
Jeremy Hurlstone	Managing Director of The Hurlstone Partnership,
Clarence Ware	The Appellant.
Brian Ware	Site Occupier (Appellant's son).
Mrs Calloway	Appellant's partner.

FOR THE LOCAL PLANNING AUTHORITY:

David Curley	Planning Officer for Teignbridge District Council (TDC).
Richard Jackson	Devon County Council (Highway Authority).
Steven Hobbs	Enforcement Officer for TDC.
Carlo Josi	Enforcement Officer for TDC.
Christine Bolton	Appeals Officer for TDC.

INTERESTED PERSONS:

David Friend	Local resident.
Martin Fairley	Local resident.
Amanda Tully	Representing Mr Harvey, local resident.
Karl Trickett	Local resident.
David Gorton	Interested party.

DOCUMENTS

- 1 Core Strategy 2013 – 2033 Development Plan Document (Preferred Options January 2012) - Policy WE6 'Gypsy and Traveller Pitches'.
- 2 Bus timetable.
- 3 Teignbridge Local Development Scheme.
- 4 Roger Michael Green v SSCLG & Canterbury City Council & others [2010] EWCA Civ64.
- 5 Letter from Royal Devon and Exeter Hospital.

Annex 1 – List of Conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning policy for traveller sites.
- 2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Clarence Ware and Mrs Jeanie Galloway, Mr and Mrs Brian Ware, Jamie and Marie Westcott.
- 3) When the land ceases to be occupied by those named in condition 2 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 4) There shall be no more than 3 pitches on the site and on each of the 3 pitches hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for: the proposed passing place, signage details and maintenance regime as indicated on the plan submitted to the local planning authority on 1 November 2011; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting; and an assessment of the nature and extent of any contamination on the site to be carried out by a competent person and any necessary remediation measures (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 6) No commercial activities shall take place on the land, including the storage of materials.