



Appeal Decision

Inquiry opened on 26 March 2019

Site visits made on 6 August 2019

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 28th October 2019

Appeal Ref: APP/C3105/W/18/3209349

Land south of Widnell Lane, Piddington, Bicester, Oxfordshire

- 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 H L Foster against the decision of Cherwell District Council.
 - The application Ref 17/01962/F, dated 22 September 2017, was refused by notice dated 16 February 2018.
 - The development proposed is described as a 'material change of use of land to use as a residential caravan site for six gypsy families, each with two caravans, including improvement of the access and laying of hardstanding'.
 - The inquiry sat for six days: 26 March, 29-31 July, and 1 & 2 August 2019.
-

Decision

1. The appeal is allowed and planning permission is granted for a material change of use of land to a residential gypsy site comprising six pitches, each with two caravans, including improvement of the access and the laying of hardstanding on land south of Widnell Lane, Piddington, Bicester, Oxfordshire, in accordance with the terms of the application, Ref 17/01962/F, dated 22 September 2017, subject to the conditions in the attached schedule.

Application for costs

2. At the Inquiry applications for costs were made by Mr Foster against Cherwell District Council (the Local Planning Authority – LPA) and Piddington Parish Council (PC). These applications are the subject of separate Decisions.

Procedural matters

3. Piddington Parish Council (PC) had served a statement of case in accordance with Rule 6(6) of The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, and it took a full part in the proceedings of the inquiry.
4. On the application form, the location of the appeal site is given as being in Arncott. The site is in Piddington, and, as agreed by the main parties, I have identified it accordingly in the appeal details above.
5. The main parties agreed with the suggestion in my pre-inquiry note that the description of development should refer to the number of pitches proposed. I have, therefore considered the appeal on the basis of a proposal for a material change of use of land to a residential gypsy site comprising six

pitches, each with two caravans, including improvement of the access and the laying of hardstanding.

6. It was agreed at the inquiry that the site layout submitted as part of the planning application should be treated as an indicative plan, since, if planning permission were granted, the layout could be subject to detailed changes including the proposed drainage arrangements.
7. The Ministry of Defence (MoD) objected to the planning application in respect of the effect of noise from Piddington Training Area, and, in response to the appeal, representations have been submitted on behalf of the Garrison Commanding Officer of Bicester Garrison & Support Unit. An application was received on behalf of the Appellant for representatives of the MoD to be available at the inquiry. Where an application is made no later than four weeks before the date of an inquiry, Rule 12(2) of the Inquiries Procedure Rules provides that a departmental representative shall attend the inquiry. Although the Appellant's application was made later than the date specified in Rule 12, I considered that it would be useful for the MoD to be represented, since the effect of noise from activities at Piddington Training Area on the living conditions of occupants of the proposed gypsy site was a matter of dispute between parties to the appeal. In response to my request, the MoD was represented at the inquiry.
8. The inquiry was adjourned on the opening day before any evidence was heard, in relation to participation by the MoD. In view of the date when the matter of its attendance was raised, it had not been realistically possible for the MoD to produce a proof of evidence before the opening of the inquiry, and the main parties agreed that the evidence should be heard continuously to enable planning witnesses to comment on noise material.
9. The LPA had originally intended to call three witnesses, including Mr Jarman in respect of the Gypsy, Traveller & Travelling Showpeople Accommodation Assessment (GTTSAA)¹. However, agreement had been reached with the Appellant in the statement of common ground that it was not necessary to examine the methodology of the GTTSAA², and Mr Jarman did not appear at the inquiry. His proof of evidence (Documents L5 & L6) remained as a written statement in respect of the appeal.
10. I asked the representative of the MoD if Training Area South at Bicester Garrison³ could be included in the programme of site visits. In the event the MoD advised that it was not possible for a visit to be arranged to this training area.
11. Proofs of evidence and documents submitted after the inquiry opened are detailed in the lists appended to this decision.

Main Issues

12. I consider that the main issues in this appeal are:
 - (i) Whether the site is a sustainable location for gypsy accommodation.

¹ The Cherwell, Oxford City, South Oxfordshire and Vale of White Horse GTTSAA, 2017.

² Statement of common ground, para 5.7.

³ Training Area South is shown straddling the boundary of Cherwell with Aylesbury Vale on the plan at Document O7.

- (ii) The effect of noise from Piddington Training Area on the living conditions of future occupiers of the appeal site.
- (iii) Whether the proposal would be consistent with the Development Plan.
- (iv) The effect of other considerations, including the need for gypsy and traveller accommodation, on the overall planning balance.

Reasons

Whether the site is a sustainable location

13. The appeal site is in the countryside, about 1km west of the village of Piddington, and about 2.5km by road from the larger settlement of Arncott. There are several MoD sites in the surrounding area, including storage units at A site, which extends past the appeal site on the north side of Widnell Lane, and Piddington Training Area, the nearest part of which is about 200m to the south-east⁴.
14. Policy BSC 6 of the Cherwell Local Plan 2011-2031 Part 1 (adopted in 2015, the 2015 Local Plan) sets out a sequential approach and criteria for the assessment of planning proposals for traveller sites. The sequential approach gives first preference to sites which are within 3km road distance of the built-up limits of Banbury or Bicester or of a Category A village. Arncott is listed as a Category A village in Policy Villages 1 of the Local Plan, and the appeal site is less than 3km from this settlement. Accordingly the proposal complies with the sequential part of Policy BSC 6.
15. In referring to areas which extend beyond settlements, Policy BSC 6 contemplates development in the countryside. It is consistent with national policy in Planning policy for traveller sites (PPTS), which similarly does not preclude traveller sites in the countryside, but makes clear, in Policy H, that they should be very strictly limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. As yet there are no allocations for traveller sites in the Local Plan. Given that the appeal site is less than 3km from Arncott by road, and even closer to Piddington, and is situated on a road which forms part of the route between these villages, I do not consider that it is in a part of the open countryside which is away from existing settlements. The appeal proposal does not conflict with this locational provision of PPTS.
16. The second part of Policy BSC 6 sets out a series of criteria for assessing the suitability of sites, including access to health services and schools. Although Arncott is a Category A village, it has a limited range of facilities. There is a convenience store, a village hall and two public houses. However there is no school or health facility. The nearest primary school and surgery are both in Ambrosden, about 3.5km away by road. The surgery is only open for two hours per week, and as part of a reorganisation by the Alchester Medical Group, it and other surgeries are due to be replaced by a new health hub in Bicester in 2022 (Document O9), which is about 6.5km from the appeal site. A bus service provides a connection between Arncott and Ambrosden (and onwards to Bicester and Oxford), and there is a bus stop at Bullington Prison, about 620m from the appeal site. There is no footway along Widnell Lane,

⁴ The location of the MoD sites is shown on Document O7. The distances given in paragraph 12 are taken from the statement of common ground.

and no lighting on that road until just before the junction with the B4011. The distance to the bus stop and the nature of the route are unlikely to encourage use of the bus service by occupants of the appeal site. Moreover, the first weekday bus does not leave until after the start of the school day, and, although the service would enable trips to be made into Bicester, where there is a good range of facilities, the last bus returns at 15.34 which limits the usefulness of this service⁵.

17. A gypsy site on Murcott Road to the south of Arncott, which was allowed on appeal in 2018, is somewhat further than the site on Widnell Lane from the nearest bus stop and from Ambrosden and Bicester. The Inspector in that case found that the opportunities to use sustainable transport modes were constrained, but that, whilst most journeys would be undertaken by private vehicles, trips to access facilities would not be long⁶. I have reached the same view in respect of this proposal, and I am mindful that paragraph 103 of the National Planning Policy Framework (NPPF) explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Moreover the provision of a settled base for six gypsy families (in an area of acknowledged need, below para 42) would facilitate access to health services and schooling, in line with paragraph 13 of PPTS.
18. The LPA and the PC argued that the cost of providing utility services told against the deliverability of the site, contrary to criterion (i) of Policy BSC 6, and the LPA also questioned the appropriateness of the means of foul drainage. The planning application proposed the use of septic tanks, a solution not favoured by the Environment Agency, although no formal objection was made. At the inquiry, the Appellant's planning witness stated that there was no objection to use of a package treatment plant, and, in my experience, both septic tanks and package treatment plants are commonly used on traveller sites.
19. There is dispute about the cost of providing a water supply from the Thames Water main alongside the B4011 to the appeal site. An estimate provided by a drainage contractor for the Appellant, allowing for about 210m of pipe, gives a cost of £46,980, whereas a figure of about £160,000 from Thames Water was submitted by the PC⁷. Bearing in mind that the connection point is a substantial way along the agreed route of about 620m to the bus stop at the prison, I share the reservation of the LPA that the Appellant's figure does not represent the full cost of providing a supply along the highway. On the other hand, there is no detailed explanation of the LPA's suggested figure of about £60,000 or the higher figure of £160,000 from the PC. However there is no dispute that a piped supply can be provided alongside the highway from the existing main, and, there is no detailed evidence that the cost of this work cannot be met and would prevent delivery of the proposed pitches. In any event, I saw on my visit to the appeal site that there is an existing water supply to the Appellant's land (which is a larger area than the appeal site). A note from the owner of the adjacent land explains that this is his supply, which the Appellant has permission to use, and there is no substantive evidence that a water supply could not be provided to the proposed gypsy site by this means.

⁵ The timetable for the bus service is at Appendix 7 in Document L4.

⁶ Paragraph 19, Appendix 5 of Document A4.

⁷ The Appellant's estimate is at Document A5, and the PC's figure is included in Appendix 15 of Document P4.

20. The third utility service discussed in the course of the appeal was electricity. Again the cost of providing a connection was in dispute: the PC submitted a figure of about £120,000 from Scottish & Southern Electric, whereas the same company provided an estimate of about £44,160 for the Appellant with the rider that certain additional works would be required⁸. An electricity supply can be provided to the appeal site, and even if the cost of this work is closer to the figure provided by the PC than that from the Appellant, the evidence before me does not indicate that that would prevent delivery taking place.
21. The MoD is concerned that its utilities are not relied on by the Appellant. None of the proposals put forward for providing utility services involve such an arrangement. Utility services can be provided for the proposed development, and the information before me does not indicate that cost would be an impediment to delivery. The provision of a drainage scheme, and water and electricity supplies can all be secured by means of conditions, and in this respect I find that the proposal would comply with criterion (i) in Policy BSC of the Local Plan.
22. The appeal site is not in a location away from settlements where traveller sites should be very strictly limited in accordance with PPTS, and it would enable reasonable access to facilities and services. Necessary utilities are capable of provision to the Appellant's land. I conclude that the appeal site is a sustainable location for gypsy accommodation.

Noise from Piddington Training Area

23. At its closest point Piddington Training Area is about 200m to the south-east of the appeal site on Widnell Lane: a second training area associated with Bicester Garrison (Training Area South) is situated further away, to the south of Arncott. The MoD has explained that the use of Piddington Training Area is varied: the main uses are categorised as demolitions training, infantry training, specialist training including by other Government departments, and cadet unit training⁹. It is the MoD's evidence that explosives are used in the demolitions training and that infantry training involves the firing of blank ammunition, small explosive charges, the use of helicopters, and practice grenades. Estimated noise levels at the appeal site are 94dB for rifle fire, 98-110dB for battle noise simulators, 102dB for practice grenades, and about 140dB for explosive charges¹⁰. Importantly, however, the MoD's evidence did not include details of actual noise levels of noise from Piddington Training Area as experienced at or adjacent to the appeal site. Its representative was unable to provide much detail about the nature of activities during training events, and, although Piddington Training Area was included in the programme of site visits, no training events were arranged to coincide with visits to the surrounding area. Efforts by both the Appellant and the LPA to carry out noise surveys when explosives were in use proved unsuccessful. The Appellant's noise consultant was advised that a low level explosives exercise had been arranged for 8 June 2017, but it became clear that weather conditions would not be suitable for monitoring to take place on that date. The Garrison indicated that it would come back with information about when

⁸ The PC's figure is included in Appendix 14 of Document P4, and the Appellant's estimate is at Document A6.

⁹ Document O2, paras 3.1-3.7.

¹⁰ Document O3, Annex D. A noise chart submitted by the LPA gives a figure of 140dB for a rifle being fired at 1m (Document L10), consistent with the MoD's figure of 142dB at a firing position.

the next exercise at a Piddington would take place, but no further response was received. Insofar as the LPA is concerned, arrangements were made for environmental protection officers to carry out noise monitoring on 14 February 2019, but they were told that the exercise had been cancelled.

24. The MoD submitted a schedule of training activities which lists 332 events between January 2016 and May 2019¹¹. Of these, 64 events involved the use of explosive ordnance disposal equipment, extending over 162 days during this period. A number of factors cast uncertainty on the MoD's assertion that the schedule relates solely to Piddington Training Area. The schedule is titled *Historic training usage of Bicester garrison training areas*, of which there is not only Piddington but also Training Area South. The Appellant's noise consultant had been advised that the training event scheduled for Piddington on 8 June 2017 would revert to its original location at Training Area South: however a demolition training event appears in the schedule for that date (serial ref 172)¹². Similarly, serial ref 21 refers to an event on 18-22 February 2019, but the notification given to the local community for a training exercise on these dates places it at C site, to the west of Arncott¹³. A further example relates to serial ref 16 which the schedule records as an exercise involving explosive ordnance on 8 March 2019. It is the undisputed evidence of the Appellant's noise witness that members of the Appellant's team were present on Widnell Lane between 0900 and 1400 hours on that day, that the gates to the training area were locked, and that no activity was observed. The MoD's representative explained that he had been provided with information on training by the Garrison, and that he had not been present at any of the training events. Moreover, the MoD did not dispute the evidence of the Appellant's noise consultant that he understood from his contacts with the Garrison that Training Area South is the busier training area. Taking these factors together, I have reservations as to whether Piddington Training Area is used to the extent indicated on the MoD's schedule.
25. A noise survey was undertaken on behalf of the Appellant in January of this year. During the 20 days period, the MoD's schedule identifies two training events; three days of unspecified activity involving 165 Squadron and three days of harbour lessons involving the Buckinghamshire Army Cadet Force. No more detail is available, and it is not known what equipment was in use on these occasions. As shooting was audible on 20 January when one of these exercises was taking place, it is possible that Piddington Training Area was in use on that occasion, although the Appellant's noise consultant suggests that the sound could have come from clay pigeon shooting by a gun club at Ludgershall to the east. However, given my concerns about the information provided by the MoD, I cannot be certain that it was in use for both events during the survey period.
26. From the survey data, average daytime (Monday-Friday) noise levels of 51dB_{L_{Aeq,T}} and average night-time (Monday-Friday) noise levels of 42dB_{L_{Aeq,T}} were calculated¹⁴. These results were assessed having regard to the internal ambient noise levels for dwellings recommended in *British Standard 8233:2014 Guidance on sound insulation and noise reduction for buildings* (BS8233), that is 35dB_{L_{Aeq,16hour}} within living rooms and bedrooms and

¹¹ Document O3, Appendix A.

¹² Email dated 6 June 2017 from Bicester Garrison in Document A2, Appendix A.

¹³ Email dated 13 February 2019 from Bicester Garrison in Document A12.

¹⁴ Document A1, table 5.1.

40dB_{L_{Aeq,16}} within dining rooms during the daytime and 30dB_{L_{Aeq,8hour}} in bedrooms at night¹⁵. It was not disputed that the mobile homes would provide a reduction of 29dB, and on this basis internal noise levels would be reduced to 22dB_{L_{Aeq,16hour}} during the day and 13dB_{L_{Aeq,8hour}} at night, well below the levels in BS8233.

27. Paragraph 30-009 of PPG explains that it is for the agent of change (in this case the Appellant) to clearly identify the effects of existing businesses (and other activities) that may cause a nuisance. The Appellant's survey was carried out in January, which is generally one of the less busy months for training exercises recorded in the MoD's schedule. It would have been preferable for a survey to have taken place during a period when more training exercises, including the use of explosives, were scheduled at Piddington. It is clear, however, that efforts had been made on behalf of the Appellant to arrange to monitor a known training exercise before the January survey was undertaken.
28. Paragraph 7.7.1 of BS8233 explains that only noise without character is considered in the indoor ambient levels set out in table 4 (para 26, above), and the accompanying note makes it clear that noise has a specific character, if, amongst other features, it is irregular enough to attract attention. In such cases, lower noise levels might be appropriate. In response to my questions, the Appellant's noise consultant referred to noise from the training area involving short bursts of gunfire and the booming of explosive ordnance. These types of noise are clearly distinct from the road traffic noise which was a predominant feature identified in the survey, and (whatever view is taken about the accuracy of the MoD's schedule) the activities which generate them do not follow a regular pattern. It is also clear from the evidence of the PC and representations from local residents that noise from Piddington Training Area attracts attention in the locality. On that basis, it seems to me that the use of lower noise levels than in table 4 would probably have been appropriate in assessing the effect of noise at the appeal site. However, given the limited activity during the survey period and the reduction in noise levels expected from mobile homes, it is likely that an alternative assessment of the survey results would still indicate that an acceptable internal living environment would be achieved.
29. The LPA suggested that reference should also have been made to *British Standard 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound* (BS4142). I note that BS4142 refers to measuring intermittent sound, and to relatively short reference time intervals of 1 hour during the day and 15 minutes at night, which may be more sensitive to irregular noise events. On the other hand, this Standard is not intended to be used for the assessment of sound from shooting grounds or construction and demolition activities.
30. Evidence on noise from Piddington Training Area was also presented by the local community, in particular the PC. It is clear that a major night-time exercise in 2016, involving low-flying helicopters and explosions was disruptive, and this has been referred to in graphic terms in representations. Both of the parish councillors who appeared at the inquiry are residents of Piddington. They explained that they were aware of noise from the training

¹⁵ BS 8233:2014, table 4.

area at their homes, but that the level of occurrences and disturbance varies. I heard that since the major exercise in 2016, 2017 and 2018 had been quieter years, and reference was made to gunfire and shouting as the main source of noise. Noisy events are reported to have increased during 2019. Gunfire and shouting could generally be ignored: it was acknowledged that they were not intrusive during the daytime when activity generally took place, and there had been little effect recently from the sound of occasional explosions and helicopters. One councillor mentioned that the noise was more obvious in the garden, but described it as no worse than irritating and that it might interrupt the odd word in a conversation. Both the councillors live about 700m from the training area, and I would expect the level of sound experienced in the village to be somewhat lower than at the appeal site which is about 200m away. I also heard that noise from the training area is louder at Widnell Park, but this amenity area is located immediately to the east of the training area, and closer than the appeal site.

31. Objections from local residents made at both application and appeal stage refer to noise from Piddington Training Area. In addition, the Parish Council submitted a bundle of emails from residents of Piddington which recount their experiences of noise. They refer to multiple incidents of noise, and mention disturbance, sleep interruption, and upset being caused to a baby and pets. Other references state that large-scale exercises are less frequent than occasions when small arms are used, that training exercises are sporadic, that a few noisy exercises have been experienced since 2015, and that there has not been a seriously detrimental effect on the experience of living in Piddington. Whilst there are some strong expressions of concern, these emails do not present a consistent picture of noise from the training area, and the anecdotal form of the information does not include precise details of the frequency of events and when they occurred. As written representations, this evidence carries less weight than that of the PC's witnesses who were able to be questioned about their experience of noise.
32. The highest noise levels given by the MoD are those involving the use of explosive charges. The derivation of the figures produced by the MoD has not been explained, and the Appellant's noise witness challenged their accuracy, suggesting that the figures represented linear peaks, rather than A-weighted sound pressure levels. The schedule of training events indicates that exercises involving explosive ordnance occur on about four days per month. For the reasons given earlier (above, para 24), I doubt that all of these events have taken place at Piddington. Moreover, the use of explosive ordnance generally occurs on weekdays, and the Appellant's noise witness explained that he had been advised in conversations with the Garrison that exercises normally take place between 0900 and 1600 hours. This was not disputed by the MoD. The evidence of the local community (above, paras 30-31) does not indicate that noisy activities have been occurring at Piddington on the frequency suggested in the MoD's schedule.
33. I appreciate that there is concern in the local community about noise generated by the activities which occur at Piddington Training Area. Use of the training area varies in frequency and intensity, but the available evidence does not point to a large number of noisier events in recent years. This could change due to operational requirements, and I am mindful that the MoD has suggested that greater use could arise due to an increase in the number of

major units and rationalisation of the defence estate. Councillor Sames, who is the Armed Forces Champion for Bicester on the County Council, also argued that the use of Piddington Training Area is likely to increase, due particularly to the expansion of the Defence Explosives & Munitions School at St Georges Barracks. No timescale or detail of these possible changes has been provided. Whilst the agent of change is expected to identify the effects of existing activities that may cause a nuisance, the Appellant encountered difficulties in making arrangements to carry out a noise survey of activities at the training area. The MoD has expressed concern about the proposal, because of the effect of noise on the living conditions of future residents of the appeal site (with the potential for restriction of use of this facility), but it has not provided detailed evidence to indicate that activities at Piddington Training Area would be likely to lead to unsatisfactory living conditions on the appeal site. I do not doubt that residents on that site would be aware of exercises taking place at the training area, and that these would impinge to a degree on their living environment. That, however, is not the test. Policy ENV1 of the Cherwell Local Plan (1996) seeks to resist development which is likely to cause materially detrimental levels of noise, and paragraph 180 of the National Planning Policy Framework (NPPF) says that planning decisions should avoid noise giving rise to significant adverse impacts on health and the quality of life. On the evidence before me, I conclude that these thresholds would not be breached, and that noise from Piddington Training Area would not unacceptably harm the living conditions of future residents.

The Development Plan

34. The Development Plan includes the 2015 Local Plan and the saved policies of the 1996 Local Plan.
35. As Policy BSC 6 of the 2015 Local Plan is concerned with traveller sites, it is one of the most important policies in the determination of this appeal. The proposal would comply with the sequential approach set out in the policy (above, para 14), and would contribute towards the 19 additional pitches required up to 2031. The policy also includes 11 criteria against which the suitability of sites should be assessed. It is common ground between the Appellant and the LPA that there is no conflict with criteria (c), (d), (f), (j) and (k) concerning flooding, access to the highway network, harm to the historic and natural environment, the existing level of local provision, and the availability of alternatives to the Appellant. On the evidence before me, I have no reason to take a different view. Criterion (f) requires the potential for harm to the natural environment to be considered. Whilst there would be some limited harm to the character and appearance of the area (below, para 39), that does not amount to conflict with the terms of Policy BSC 6. Local residents have expressed concern about highway safety, flooding and the effect on wildlife, but there is no detailed evidence to substantiate these objections. The Highway Authority does not object to the development, and the site is in flood zone 1 where flood risk is lowest. Great crested newts have been recorded in the vicinity of the site, but a mitigation strategy prepared in accordance with the method statement in the Appellant's survey should avoid any adverse effects on the species, and a landscape and ecological management plan would secure a biodiversity net gain from the site, in accordance with Policy ESD 10 of the 2015 Local Plan. Both these measures could be secured by condition, to which the Appellant had no objection.

36. I have found that the proposal would facilitate access to health services and schools, thereby complying with criteria (a) and (b) (above, para 17). Utility services can be provided, and secured by condition (above, para 21). No other impediment to deliverability has been raised, and I find no conflict with criterion (i).
37. Criterion (h) is concerned with the efficient and effective use of land, and the LPA drew attention to the fact that the appeal concerns a greenfield site, whereas paragraph 26 of PPTS says that weight should be attached to the effective use of brownfield, untidy or derelict land. That does not mean that efficient and effective use cannot be made of greenfield land. The illustrative layout plan shows six pitches, each accommodating a mobile home, a touring caravan and parking space, with modest areas of open space at the northern and southern ends of the site. Development of this 0.6ha site for six pitches would not represent an inefficient use of the land. Nor, given the need for traveller accommodation, would this be an ineffective use of the appeal site.
38. The remaining criteria concern the potential for noise and disturbance (e) and the ability to provide a satisfactory living environment (g). As I have concluded that noise from Piddington Training Area would not cause unacceptable harm to living conditions on the site, these criteria are satisfied. I have already found that the proposal would not conflict with Policy ENV1 of the 1996 Local Plan in respect of noise from the training area, and similarly in this respect it would not conflict with Policy ESD 15 of the 2015 Local Plan.
39. The site is in the countryside, and it is part of a field within a tract of open land on the south side of Widnell Lane. Formation of six pitches and the stationing of caravans on the site would involve the encroachment of development into the field, and the Appellant's planning witness acknowledged that there would be some harm to the character and appearance of the area. The presence of the large MoD storage building on A site to the north and open storage on land to the east would lessen the impact of the gypsy pitches. Nevertheless, the proposal would not comply with that part of Policy ESD 15 which requires that new development should contribute positively to an area's character and identity, nor with Policy ESD 13 which expects new development to respect and enhance local landscape character. Similarly, the proposal would conflict with Policy C28 of the 1996 Local Plan which seeks to ensure that all new development is sympathetic to the character of the urban or rural context.
40. Policy PSD 1 of the 2015 Local Plan reflects the presumption in favour of sustainable development as set out in the first version of the NPPF. The form of words in the current version of the NPPF is more relevant, and relates to the overall planning balance which I consider in my overall conclusions.
41. The appeal proposal would comply with Policy BSC 6, the Development Plan policy concerned with traveller sites and with several other relevant policies. However I conclude that, given its conflict with Policies ESD 13, ESD 15 and C28 concerning the character and appearance of the area, it would conflict with the Development Plan considered as a whole.

Other considerations

42. It is common ground between the LPA and the Appellant that there is no supply of sites to meet the need for gypsy and traveller accommodation in Cherwell. Using the figure of 19 pitches in Policy BSC 6, and, taking account of a net loss of 18 pitches, the Annual Monitoring Report for 2018 calculates a shortfall of 30 pitches for the five years 2019-2024. An alternative calculation, based on the 2017 GTTSAA, gives a shortfall of 12 pitches¹⁶. The Appellant's planning witness is critical of the approach taken in the GTTSAA to assess the number of travellers meeting the definition in Annex 1 of PPTS, and suggests that at least 17 pitches are required in the five years period¹⁷. The PC raised several queries about the LPA's calculation of need, suggesting that the 10 pitches lost at Banbury should not have been included as part of the supply, and questioning the justification for including replacement pitches for 8 households from another site. The Appellant's witness explained that the site at Station Road, Banbury had been occupied by travellers, and the LPA had identified a potential need for 8 pitches to accommodate households who intended to stay in Cherwell following the closure of an existing site. There is no detailed evidence to indicate that there is anything other than a general need for traveller accommodation. Although the Appellant and the LPA have put forward different figures in assessing the shortfall, they all clearly exceed the contribution which would be made by the appeal site. These parties agree that significant weight should be attached to the unmet need, a view which I share.
43. Arncott PC has suggested that there are more suitable locations, making reference to a major development site at Graven Hill, and arguing that priority should be given to brownfield land. However the LPA agrees with the Appellant that there are currently no alternative sites available to meet the need for traveller accommodation in Cherwell. The current lack of alternative sites is a matter which carries important weight in support of the appeal proposal.
44. There is no policy in the Development Plan which identifies sites for gypsy and traveller pitches. Although Policy BSC 6 in the 2015 Local Plan sets out matters to take into account not only in assessing applications for gypsy sites, but also in making allocations, I heard that the LPA currently has no proposals to allocate land for gypsy and traveller accommodation. Given the general need for accommodation, this circumstance adds some further weight in support of the appeal proposal.
45. The MoD is concerned that establishment of the gypsy site in close proximity to Piddington Training Area could compromise the use of that facility. In cross-examination, however, the MoD's representative acknowledged that there are no legal restrictions on the use of the training area, and there is, therefore, no reason for the existing pattern of exercises on that land to be altered if planning permission were granted for the appeal proposal.
46. Arncott PC is concerned that, together with Oaksvie Park, the development would place undue pressure on the limited services in Arncott, and several local residents express similar views. There is no specific evidence that the

¹⁶ The calculations are set out in tables 22 and 23 of Appendix 5 in Document L4.

¹⁷ Document A3, paras 5.31-5.39.

modest addition of six additional households would have an adverse effect on the operation of local facilities and services. The Governor of Bullingdon Prison expressed concern at application stage about the appropriateness of a traveller site being located close to prison. There is no evidence before me to substantiate a concern that the proposal would have an adverse impact on security.

Conditions

47. I have already referred to conditions concerning the provision of utility services, a mitigation strategy for great crested newts, and a landscape and ecological management plan, all of which would be necessary for the development to proceed. As the site is in the countryside where development is restricted, it would be necessary to limit occupancy to gypsies and travellers. To safeguard the character and appearance of the area, the number and type of caravans should be specified, and a site development scheme should be submitted for approval which precisely identifies the position of areas for parking and the siting of both mobile homes and touring caravans, and includes landscaping details. For the same reason any external lighting scheme should be submitted for approval, and no commercial activities or parking of vehicles over 3.5 tonnes should take place on the land. It is important that a mobile home is stationed on each pitch and that this meets the sound insulation specification of BS 3623:2015 to ensure satisfactory living conditions. Finally, a condition specifying the relevant drawing would be important as this provides certainty.
48. Conditions concerning drainage, a site development scheme, a landscape and ecological management plan, and a mitigation strategy for great crested newts should be pre-commencement conditions since the matters with which they are concerned need to be resolved before development works take place. The Appellant has agreed to these conditions¹⁸.

Conclusions

49. The proposal would fail to comply with the Development Plan due to its effect on the character and appearance of this countryside location, although the harm in this respect would be limited. There would be some effect on future residents of the appeal site from noise at Piddington Training Area, but on the evidence before me I do not consider that this would cause unacceptable harm to their living conditions. Use of the training area is not subject to legal restrictions, and there is no reason for it to be constrained by residential occupation of the appeal site. This is not a matter which counts against the appeal proposal. I have also found that the site is in a sustainable location for the provision of traveller accommodation.
50. The proposal would contribute to meeting the need for gypsy and traveller accommodation in Cherwell, a benefit to which I give significant weight. Further positive weight arises from the lack of alternative available accommodation and the policy position concerning the provision of traveller sites in the District. These benefits clearly outweigh the conflict with the Development Plan and the limited additional harm which I have identified.

¹⁸ The Regulation 2(4) notice is at Document O11, and the Appellant's agreement to the imposition of pre-commencement conditions is at Document A16.

51. Representations were made to the effect that there would be an interference with the human rights of those travellers in need of accommodation in Cherwell. Articles 8 and 14 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, do not impose an obligation to provide an adequate number of traveller pitches, and it is not possible to infer a breach of unidentified travellers' right to a home because there is an accepted need for traveller sites. In any event, as I have decided to allow the appeal, there would be no adverse effect on the availability of traveller accommodation.
52. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Richard Clegg

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the A4 location plan at a scale of 1:2500 and dated 12 January 2017.
- 3) 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 (August 2015).
- 4) There shall be no more than six pitches on the site, and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on each residential pitch at any time.
- 5) One of the caravans stationed on each pitch shall be a static caravan or mobile home, and that static caravan or mobile home shall comply with the specification of paragraphs 4.8 and 4.9.4 in British Standard BS 3632:2015 – Residential park homes – Specification.
- 6) No development shall take place until a site development scheme has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include:
 - a) Details of proposed tree and shrub planting, including their species, number, sizes and positions, together with grass seeded/ turfed areas.
 - b) Details of the existing trees and hedgerows to be retained and those to be felled, including the minimum distance between the base of each retained tree and hedgerow and the nearest edge of any hardstanding or excavation.
 - c) Details of the hard surface areas, including vehicular access, turning and parking space.
 - d) Details of site enclosures.
 - e) Position of pitches and caravans.
 - f) Location of waste bin storage.

The development shall be carried out in strict accordance with the approved site development scheme and shall be retained as such thereafter.

- 7) All planting, seeding or turfing comprised in the approved site development scheme shall be carried out in the first planting and seeding season following the first occupation of the site. Any trees and plants which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 8) No development shall take place until detailed schemes for the foul and surface water drainage of the site have been submitted to, and approved in writing by, the Local Planning Authority. The surface water scheme shall be based on sustainable drainage principles, and no surface water

from the site shall be discharged onto the public highway or into the adopted highway drainage system. The approved foul and surface water drainage schemes shall be implemented prior to the first occupation of the site, and they shall be retained thereafter.

- 9) No development shall take place until a landscape and ecological management plan (LEMP), to secure a biodiversity net gain from the development site, has been submitted to, and approved in writing by, the Local Planning Authority. The LEMP shall be carried out in accordance with the approved details and shall be retained thereafter.
- 10) No development, including any works of site clearance, shall take place until a mitigation strategy for great crested newts, prepared in accordance with the method statement in the Land off Widnell Lane, Piddington – Great Crested Newt Survey by Cotswold Wildlife Surveys Ltd (report No 2616-CWS-02, version 02, 18 December 2017) and including a programme for implementation, has been submitted to, and approved in writing by, the Local Planning Authority. The mitigation works shall be carried out in accordance with the approved strategy and shall be retained thereafter.
- 11) No external lighting shall be installed on the site, other than in accordance with a scheme, including details of the position, height and type of lights, which has been submitted to and approved in writing by the Local Planning Authority.
- 12) No commercial activities shall take place on the land, including the storage of materials.
- 13) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 14) The site shall not be occupied until a water supply and an electricity supply have been provided in accordance with schemes which have been submitted to and approved in writing by the Local Planning Authority.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Lewis of Counsel	Instructed by Cherwell DC
He called	
Mr N Whitton BSc	Environmental Protection Officer, Cherwell DC
Mr A Murphy BA(Hons)	Director, Stansgate Planning Consultants Ltd
MSc MRTPI	

FOR THE APPELLANT:

Mr A Masters of Counsel	Instructed by Mr Brown
He called	
Mr L Jephson BEng MIOA	Acoustic Consultant & Director, LF Acoustics Ltd
Mr P Brown BA(Hons)	Managing Director, Philip Brown Associates Ltd
MRTPI	

FOR PIDDINGTON PARISH COUNCIL:

Mr R Langham of Counsel	Instructed by the Clerk to the Parish Council
He called	
Councillor P Feltbower	Piddington PC
Councillor F Darby	Chair, Piddington PC

INTERESTED PERSONS:

Mr M Ellis BA(Hons) MA MRTPI	Senior Town Planner (Estates), Defence Infrastructure Organisation, Ministry of Defence
Councillor S Holland	Member of the District Council for Launton & Otmoor Ward
Councillor D Sames BA(Hons) MSc PGCTHE	Member of Oxfordshire County Council for Otmoor Division, Member of the District Council for Bicester South & Ambrosden Ward, Member of Bicester Town Council

THE LPA'S DOCUMENTS

L1	Mr Whitton's proof of evidence.
L2	Appendices to Document L1.
L3	Mr Murphy's proof of evidence.
L4	Appendices to Document L3.
L5	Mr Jarman's statement.
L6	Appendices to Document L5.
L7a-b	Report and plans relating to planning application for a dwelling at Cowpastures Farm, Arncott Road, Piddington.
L8	Mr Lewis's opening statement.
L9	Extracts from PPG chapter 30 – Noise.
L10	Decibel chart.
L11	Mr Lewis's closing submissions.
L12	Mr Lewis's response to the Appellant's costs application.

THE APPELLANT'S DOCUMENTS

- A1 Mr Jephson's proof of evidence.
- A2 Figures and appendices to Document A1.
- A3 Mr Brown's proof of evidence.
- A4 Appendices to Document A3.
- A5 Letter dated 22 March 2019 from DW Clark Drainage Ltd to Mr R Foster concerning a water supply to the appeal site.
- A6 Letter dated 20 February 2019 from Southern Electric Power Distribution plc to the Appellant concerning an electricity supply to the appeal site.
- A7 Gunfire noise level reference chart.
- A8 Note dated 30 July 2019 from Mr G J Legge concerning the water supply to the appeal site.
- A9 Plan relating to title No ON262166 for the appeal site and adjacent land.
- A10 British Standard 4142:2014+A1:2019 – Methods for rating and assessing industrial and commercial sound.
- A11 Bundle of emails to Piddington PC concerning military exercises.
- A12 Bundle of emails from Bicester Garrison to Piddington PC and others concerning military exercises.
- A13a-b Letter dated 29 June 2010 from the Ministry of Defence to the LPA concerning planning applications for housing on Murcott Road and Buchanan Road, Arncott, and plan of housing proposed on Murcott Road.
- A14 Copy of register of title No ON329951 – The Appellant's land at Widnell Lane.
- A15 Mr Masters's closing submissions and costs applications.
- A16 Email dated 3 October 2019 from Mr Brown in response to Document O11.

PIDDINGTON PC'S DOCUMENTS

- P1 Councillor Feltbower's proof of evidence.
- P2 Appendices to Document P1.
- P3 Councillor Darby's proof of evidence.
- P4 Appendices to Document P3.
- P5 Mr Langham's opening statement.
- P6 Mr Langham's closing submissions.
- P7 Email dated 5 August from the Parish Council concerning the bus service between Piddington and Bicester.
- P8 Mr Langham's response to the Appellant's costs application.

OTHER DOCUMENTS

- O1 Policy Villages 1 of the 2015 Local Plan.
- O2 Mr Ellis's proof of evidence for the Ministry of Defence.
- O3 Appendices to Document O2.
- O4 Councillor Sames's proof of evidence.
- O5 Lists of suggested conditions.
- O6 Appeal decision relating to Documents L7b & O8.
- O7 Plan showing the appeal site and surrounding area.
- O8 Planning application form concerning a dwelling at Cowpastures Farm.
- O9 Item from Alchester Medical Group website concerning the move

- to a new health hub. Submitted by Councillor Sames.
- O10 Mr Ellis's closing statement.
- O11 Regulation 2(4) notice concerning possible pre-commencement conditions.
- O12 Letter dated 9 October 2019 from the MoD in response to Document O11.