



Appeal Decisions

Site visit made on 13 April 2021

by Graham Chamberlain BA(Hons) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2021

Appeal A - APP/L2820/W/20/3247096

Bowd Field (Plot 1), Desborough Road, Stoke Albany, Northamptonshire

- 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 A Holland (Jnr) against the decision of Kettering Borough Council.
 - The application Ref KET/2019/0245, dated 09 April 2019, was refused by notice dated 8 November 2019.
 - The development proposed is described as 'change of use of land for the siting of 3 static caravans for residential use, to include installation of septic tank, hard standing for vehicular parking and bin storage, erection of post and rail fencing and soft landscaping'.
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Appeal B - APP/L2820/W/20/3247099

Bowd Field (Plot 2), Desborough Road, Stoke Albany, Northamptonshire

- 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 T Holland against the decision of Kettering Borough Council.
 - The application Ref KET/2019/0445, dated 21 August 2019, was refused by notice dated 8 November 2019.
 - The development proposed is described as 'change of use of land for the siting of 2 static caravans for residential use, to include installation of septic tank, hard standing for vehicular parking and bin storage, erection of post and rail fencing and soft landscaping'.
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Decisions

1. Appeal A – The appeal is allowed and planning permission is temporarily granted for the change of use of land for the siting of 3 static caravans for residential use as a single pitch, to include installation of septic tank, hard standing for vehicular parking and bin storage, erection of post and rail fencing and soft landscaping at Bowd Field (Plot 1), Desborough Road, Stoke Albany, Northamptonshire, in accordance with the terms of the application, Ref: KET/2019/0245, dated 09 April 2019, subject to the conditions set out in the attached schedule.
2. Appeal B – The appeal is allowed and planning permission is temporarily granted for the change of use of land for the siting of 2 static caravans for residential use as two pitches, to include installation of septic tank, hard standing for vehicular parking and bin storage, erection of post and rail fencing and soft landscaping at Bowd Field (Plot 2), Desborough Road, Stoke Albany, Northamptonshire, in accordance with the terms of the application, Ref: KET/2019/0445, dated 21 August 2019, subject to the conditions set out in the attached schedule.

Applications for Costs

3. Applications for awards of costs have been made by both Mr A Holland and Mr T Holland against Kettering Borough Council. These applications will be the subject of separate Decisions.

Preliminary Matters

4. In the interests of brevity and accuracy I have taken the descriptions of development from the Council's decision notices. I have considered the two appeals concurrently, but on their own merits, because there are some common matters between them. The Council has confirmed that the reference to Policy 2 of the North Northamptonshire Joint Core Strategy (CS) in the reasons for refusal was an error and I have considered the proposals on this basis. I have instead considered Policy 3 at the request of the Council. The appellants have had a chance to comment upon this.
5. Since the decisions were issued Kettering Borough Council has become part of North Northamptonshire Council. This has not altered what currently constitutes the development plan. I have referred to Kettering Borough Council in the banner headings above as this was the local planning authority identified on the decision notices. At my request, Historic England (HE) were consulted because the Council submits that the appeal sites are in the setting of a Grade I listed building. A substantive response was not received from HE.
6. The proposal in Appeal A would involve the siting of three mobile homes/static caravans which would be occupied by Mr A Holland and his family. Thus, Appeal A is for a single pitch. Appeal B would involve the siting of two mobile homes/static caravans. They would be occupied by Mr and Mrs T Holland and the second by Mr and Mrs I Holland and their family. The mobile homes would therefore be occupied by different, albeit related, households and therefore I have considered Appeal B on the basis that two pitches are proposed.
7. I observed that extensive development has taken place in and around the appeal site. To the north is an area where scrap, rubble, building materials and vehicles are being stored and this has spread out into the adjoining paddocks. A mobile home is also in the paddock to the north of the appeal sites. To the west, beyond Plot 2, is more rubble, vehicles, and a caravan. This is on land annotated on the drawings as belonging to Mr D Holland. These works are not before me and therefore I have not considered them.
8. The appellants and their families have moved onto the site and have established pitches. However, the plots are not set out as per the drawings. For example, sheds, close boarded fencing and gates have been erected and the plots are of different sizes and configurations. Plot 1 appears to have been subdivided. I have considered the proposals based on the drawings and not what has occurred. The proposals are so different to what has occurred on site that throughout my decision I referred to the effects that the proposals would have rather than those the existing development on site is having.
9. Although Appeal A does not include space for touring caravans, the Council does not dispute that Mr A Holland follows a nomadic habitat of life for work and therefore meets the definition of a Gypsy and Traveller for planning purposes in the Planning Policy for Traveller Sites (PPTS). Similarly, there is no

dispute that the other households at Plot 2 meet the planning definition despite the limited documentary evidence supplied. Thus, the PPTS is relevant.

Main Issues

10. The main issues in these appeals are:

- The effect of the proposed developments on the character and appearance of the area; and
- Whether the proposed developments would be closely linked to a settlement with an adequate range of services and facilities.

Reasons

The effect on the character and appearance of the area

11. The appeal sites are situated within a field on the western side of the B669, which marks a reasonably abrupt point of transition in the landscape. To the east of it the topography is generally flat being a former airfield. Wind turbines and other industrial type structures and buildings are visible from the public footpath that traverses this area. Alternatively, the western side of the road has a verdant, more intimate, and very rural character due to the presence of extensive tracks of woodland as well as an intact network of thick hedges. The landscape to the north west flows attractively into an undulating valley. The rural qualities of the area endure despite the presence of an existing building to the south of the appeal sites and ad hoc activity to the north.
12. By being wooded, tranquil and intimate with an intact hedgerow network the landscape to the west of the road exhibits several intrinsic physical, aesthetic, and perceptual qualities typical of the Geddington Chase Character area¹. It is therefore part of a valued landscape and highly sensitive to change. A public footpath passes through this area and allows the qualities and relative tranquillity of the landscape to be experienced. There is also public access into the nearby woodland. Being on the western side of the road and close to the woodland, the appeal sites in their undeveloped and rural state would contribute to the qualities of the landscape.
13. The appeal schemes would involve several mobile homes and vehicles being sited and parked within the pitches. The pitches would also incorporate hard standings which would be linked to a new access road. The individual and combined effect of this would be an urban intrusion into an overtly rural and tranquil landscape that would meaningfully alter the nature of the appeal sites from part of an open undeveloped field to that of residential development. Such development would appear starkly isolated given its physical remoteness from a settlement. This would significantly harm the character of the landscape.
14. The plots would also be large and consequently there would be the inherent risk that the domestic paraphernalia and activity associated with the pitches would sprawl to fill the entire plots. Conditions limiting the number of caravans, fixing the site layout and preventing commercial activity could prevent the impacts compounding or spreading, but this would have some practical difficulties as it would require a high degree of monitoring by the

¹ A subcategory of the Wooded Clay Plateau Landscape Character Area (LCA) defined in the Northamptonshire Landscape Character Assessment

Council and compliant appellants. Notwithstanding this, conditions along these lines would simply contain the harmful impacts rather than mitigate the inherent harm to the landscape that would occur from the presence of the pitches.

15. The visual impacts of the developments would be localised due to the presence of the hedges around the perimeter of the field within which the appeal sites are situated and the woodland to the north east and west. There are also other belts of landscaping that contain views of the appeal sites. In particular, there is a thick belt of landscaping to the north of the access into the field and this is quite successful as a screen. On the eastern side of the road another thick belt of landscaping has been planted on the eastern side of the roadside hedge. This already provides a notable screening effect from the public footpath to the east such, that only the very top of the existing mobile home is visible. Over time, it is unlikely the developments would be visible from this vantage point.
16. That said, the sites are very prominent in views from the B669, although only from a short section and, in the main, to motorists travelling at speed. The proposals would nevertheless result in the sense that the countryside has been encroached upon by residential forms of developments discordantly intruding into a tranquil rural location. In this respect the appeal schemes would appear incongruous and stand out even in these glimpsed views. In addition, the developments would be visible from the footpath to the west of the appeal sites despite the existing hedgerow. The presence of the pitches would be especially harmful from this vantage point because the rural character of the landscape is particularly marked along this section of the footpath.
17. Accordingly, the localised impact would still be very apparent and significantly harmful, somewhere between the 'slight/moderate adverse' and 'major adverse' categorisations suggested by the respective landscape experts in their submissions. Due to the distance and intervening woodland, there is unlikely to be any visual impacts to the users of the Macmillan Way.
18. The section of hedge immediately to the east of the appeal sites alongside the B669 could be left to grow taller and this would provide some screening effect. However, the hedge is not particularly thick or structural, unlike the belt of landscaping to the north on the other side of the entrance into the field. Furthermore, it does not screen views looking along the field access. Therefore, it would not be successful in screening the development, especially in winter when the leaves drop. In any event, it would be imprudent to rely on landscaping as a means of screening or hiding inherently discordant development because it could fail or die in the future despite the provisions of the Hedgerow Regulations.
19. With the above in mind, even if allowing the hedge along the eastern boundary to grow tall would be adequate mitigation, and I do not think it would be, a long term commitment would need to be placed on the landowner to secure its maintenance at the suggested height. Such a long-term compulsion cannot be placed on the appellants because the hedge is on land outside their control. Likewise, any supplemental planting to the east of the sites could be secured through a Grampian type condition but its longevity and management could not because the new planting would also be on land outside the appellant's control. Therefore, it would be unreasonable to secure on going management through a planning condition because adherence to such a condition would be

reliant on a third party. A planning obligation entered into by the landowner is not before me. In the absence of any means to secure management of the hedge it could be lowered as it previously was, and the site exposed further in views from the B669.

20. Similarly, additional landscaping could be planted to the west of the proposed plots in an attempt to screen the developments from the western footpath. This could also be secured through a Grampian type condition. However, the planting would need to be structural in nature to be an effective screen all year round, and thus more than simply a reinforcement of the existing hedge. The submitted landscaping details do not confirm the landscaping would be of the structural form necessary. In any event, it would take time to mature and, like with the hedge to the east, ongoing management and longevity could not be secured through a planning condition because the land is outside the control of the appellants.
21. Soft landscaping could be planted around the immediate boundaries of the plots, but this would need to be low level to ensure the pitches are not oppressively enclosed. This level of planting would soften the proposals but do little to screen their presence in the landscape. Overall, the submissions before me do not demonstrate that landscaping would mitigate the stark visual impact of the developments.
22. The appellants have indicated that the caravans could be painted green. This may soften their presence in the landscape. However, the fact this has not already been done does lead to questions over how practical it is. In any event, the general paraphernalia at the site including hard standings, fencing and vehicles would still be very apparent.
23. The Council have suggested that allowing the appeal schemes would set a precedent and thus put pressure on it to allow further similar development in the field, resulting in cumulative landscape impacts. There may be some traction to this argument, but it is one for a future decision maker to grapple with once the extent of any subsequent development, alongside any mitigation and the circumstances of the case, are known. I have therefore confined my assessment to what is proposed rather than consider this alongside any theoretical future development that may also occur.
24. In conclusion, the proposed development would have a significant adverse impact on the landscape and character and appearance of the area. The submissions do not demonstrate this impact could be mitigated. As a result, the appeal schemes would be in conflict with Policies 3 and 31 of the CS and Policy 7 of the Kettering Local Plan (LP), which seek to secure development that is sensitive to the landscape and does not result in significant adverse impacts.

Whether the proposed developments would be closely linked to a settlement

25. Policy RA5 of the LP identifies Gypsy sites as a type of residential development that may exceptionally be permitted in the open countryside. However, this was subject to adherence to Policy 119 of the LP, which was not saved. Policy 119 of the LP has been superseded by Policy 31 of the CS.

26. Policy 31 of the CS requires new pitches to be closely linked to a settlement with an adequate range of services and facilities. The term 'closely linked' is not defined and Policy 1 of the CS adds little to the interpretation of this as it is a general overarching policy. However, it is reasonable to consider the term with reference to Paragraph 25 of the PPTS, which seeks to strictly control the provision of traveller sites in open countryside away from existing settlements and Paragraph 13 which seeks to harbour integrated co-existence.
27. The nearest discernible settlements to the appeal sites with an adequate range of services and facilities are the villages of Stoke Albany and Wilbarston to the north and the town of Desborough to the south. The appeal sites are separated from these settlements by fields, woodland, and open arable countryside. This results in the appeal sites having a very rural context and a sense of being isolated. In this respect they are not closely linked to a settlement in a spatial sense because they are physically away from them and viewed very much in the context of open, rural and tranquil countryside.
28. There is no overt requirement in Policy 31 that the 'close link' should be provided by sustainable transport modes and nor does it suggest traveller sites should be adjacent to a settlement. That is unsurprising as there is no such requirement in the PPTS, with Paragraph 13 therein defining sustainability in a broad sense. However, 'sustainable transport' can still be a relevant consideration when assessing whether the appeal sites have a functional relationship to settlements with services and facilities. This is due to the clear environmental and health benefits that can be achieved from locating development where services and facilities can be accessed by such modes.
29. Being over a mile away from Stoke Albany, Wilbarston and Desborough the sites are not within a comfortable walk of facilities. This is due to the distance and the nature of the walking environment, which would probably require pedestrians to traverse the B669, which seems to be a reasonably busy road which is devoid of pavements but subject to fast moving traffic. Given what I observed, Crashmap data does not satisfy me that walking along this road should be encouraged. The other option is to use nearby public footpaths, but these are cross country routes that are unsurfaced and therefore difficult to traverse in the winter months. Thus, regular use by future residents for work and shopping would be highly unlikely. The nature of the B669 would also discourage cycling by those who are not confident and proficient in such a mode of transport. There was no evidence during my site visit that the current occupants of the appeal sites use bicycles.
30. Thus, the residents of the proposed pitches would be predisposed to use private motorised transport when accessing facilities and services, including bus stops, which are also some distance from the appeal sites and only provide access to a limited service. Thus, the appeal sites are not closely linked to settlements through sustainable transport modes.
31. However, the appeal sites would be a very short drive from several nearby settlements that offer most of the services required for day to day living and this can be considered a functional relationship, as can the links between the occupants and local schools. Over time the journeys would add up and this would increase carbon emissions and suppress the health benefits that can be gleaned from sustainable travel options such as walking. However, members of

the travelling community are generally reliant on vehicles wherever they live. Accessibility needs to be considered in this context.

32. Moreover, for parts of the year some of the occupants of the pitches would be away travelling and therefore the number of journeys would be reduced. The proximity to the B669, A427, A6 and A14 would also facilitate easy access to the national road network and therefore facilitate travel and the nomadic habit of life the occupants suggest they engage in. Living on one site as an extended family would also reduce trips and allow some to be linked.
33. In conclusion, the appeal sites would not be closely linked to a settlement by sustainable transport. However, this is tempered by the good road access and the travelling nature of the future occupants. Yet, and importantly in this instance, due to the position of the sites in open countryside away from villages and towns, I find that the pitches would not be closely linked to a settlement at odds with Policy 31 of the CS as well as Policy RA5 by association.

Other Harm

34. The establishment of pitches at the appeal sites amounts to intentional unauthorised development because the appellants knew they needed planning permission but undertook the development without being granted it first. As such, the 2015 ministerial statement is relevant².
35. The works have resulted in extensive and excessive areas of hard standing being laid, and fences and gates being constructed. As such, some physical damage to the land has occurred and this may prove difficult to remediate. It has also prevented biodiversity surveys of the site in its pre-developed state. That said, the hard standing is compacted hard core so it could be removed, and the field re-established. This would, however, take time and money. The mobile homes could also be easily removed as could the vehicles. By way of mitigation, and for reasons I go into, the appellants had limited options in respect of accommodation. Nevertheless, the works undertaken have gone well beyond what is necessary to establish a temporary home pending the outcome of the applications. Overall, the undertaking of intentional unauthorised development adds moderate additional weight as a material consideration against the proposals.

Other Considerations

The general need and supply of pitches

36. The PPTS requires local authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against its pitch target. In this instance I have considered the need and supply in the former Kettering Borough Council area as there is nothing to suggest I should be considering this with reference to the new North Northamptonshire area.
37. The CS identifies a need for 13 pitches in Kettering for the period 2011-22. This was based on a Gypsy and Traveller Accommodation Assessment (GTAA) dating from 2011, which identified the then known need. This is now some time ago and consequently there is some doubt over whether the pitch target in the CS is up to date. To this end, a new GTAA was completed and published

² Green Belt Protection and Intentional Unauthorised Development 2015

in 2019 and this covers a period from 2018-2033. This does not appear to have been formally tested but it is the most up to date evidence before me and follows a well-trodden methodology. Using this analysis, the Council are of the view that its five-year requirement is 15 pitches for the period 2020-21 to 2024-25 based on needs arising from concealed households and household formation.

38. The Council have suggested that it has a supply that could be as high as 39 pitches. However, this would require it to pursue enforcement action against those occupying sites in breach of conditions that restrict occupation to Gypsies and Travellers as defined in the PPTS. The evidence before me does not suggest this has taken place and therefore these sites are not currently available. With these sites removed, the Council suggest the supply is 18 pitches. Ten of the pitches are to be delivered on a site at Stoke Albany Road.
39. The PPTS explains that a site with planning permission should be considered deliverable until permission expires, unless there is clear evidence it will not be implemented within 5 years. The Stoke Albany Road site was approved in July 2009 and the permission is apparently live because a lawful commencement has taken place. Commencement may be enough to demonstrate implementation but, in this instance, implementation has stalled. The site is still not operational over a decade after being granted permission. It would also seem that a Compulsory Purchase Order is likely to be required to deliver this site. If CPO proceedings have commenced, they would be at the very early stages and the outcome cannot be assumed.
40. The fact that the site is not operational more than ten years after being granted permission is clear evidence that the site should not currently be treated as being deliverable. I stress that this is a finding based on the evidence available to me. Moreover, as things stand I do not consider the site can be considered deliverable until the CPO proceedings have concluded in the Council's favour. Accordingly, even if I were to accept the Council's evidence on need, which the appellants dispute³, the Council are still unable to demonstrate a five-year supply of sites with the Stoke Albany Road site discounted from the supply. This weighs in favour of the proposals. In this respect the Council's planning officers were correct in taking a cautious approach and not finding a five-year supply of pitches.
41. Moreover, by including a bricks and mortar dwelling, which is demonstrably not a pitch, the supply in respect of the Woodlands site has been over estimated. Similarly, only a single pitch was approved at The Gateway so it would seem inaccurate to record this as five pitches. Again, a single pitch was approved at the Woodside site so recording this as two seems to be overstating the available supply. Permission was given for 10 pitches at the Stoke Albany Road site and not 24, so such an uplift cannot be justified. This all supports the conclusion that the Council's supply is not as high as it considers it to be.
42. In allowing an appeal in 2017⁴ for a residential pitch in the borough, the Inspector concluded that there had been a policy failure due to the Council's persistent inability to allocate enough sites to meet the identified need. This was afforded a small amount of weight due to the measures the Council were taking to remedy this, including the adoption of Policy 31 of the CS and the

³ The appellants consider there to be a need for 34 pitches and a supply of 7 over the next five years

⁴ APP/L2820/W/15/3139293

preparation of the Local Plan Part 2 (LPP2). Matters have moved on. The LLP2 does not include site allocations for travellers and the Council are still unable to demonstrate a five-year supply of sites. It is however, about to start a Gypsy and Traveller Site Allocations Development Plan Document, but there has already been slippage against the Local Development Scheme timetable. Accordingly, there is still a policy failure and the weight attached to this should be increased given the passage of time. It is now a matter of moderate weight.

The accommodation needs of the future occupants

43. Mr A Holland requires space for three mobile homes to accommodate his large family, which includes his partner and several children, including stepchildren, which live with him permanently or for some of the time. This information was set out in response to my questions and seems to contradict an affidavit referred to by the Council dated 21 October 2019, which confirmed that Mr A Holland had separated from his partner (who is apparently living in bricks and mortar housing) and therefore only needed one mobile home. I have no reason to doubt the most up to date position with the contradiction explained by Mr A Holland believing he may have had a better chance of being granted planning permission if only applying for a single mobile home.
44. Mr and Mrs T Holland require a pitch to accommodate a single mobile home as does Mr and Mrs I Holland. The latter need a larger pitch so there is space for their four children to play outside. Mr and Mrs T Holland and Mr and Mrs I Holland would prefer to share a site.
45. The evidence from the parties outlining events prior to the occupation of the sites is incomplete. However, it would seem the current occupants of Plots 1 and 2 were previously living at private authorised sites⁵. They left these sites because the families had increased in size and their pitches at the time were not considered large enough, especially as there was little outside space for children to play.
46. There is currently a vacant pitch available at The Pastures site which has been offered to the families. They have not accepted the offer because the pitch is considered to be too small. It is unclear whether it is smaller than a normal pitch or too small for their needs. That said, a conventional sized pitch is unlikely to be suitable for Mr A Holland and his family given the need for three mobile homes. Similarly, a small pitch is unlikely to be suitable for Mr and Mrs I Holland and their four children. It is, nevertheless, less clear why Mr and Mrs T Holland could not occupy the available pitch, as they have no dependents. The evidence before me does not demonstrate they are reliant on Mr and Mrs I Holland in respect of care or for other reasons. That said, there is a family bond and the grandparents probably assist with looking after the grandchildren.
47. Therefore, the available pitch may address the accommodation needs of one household but not the other two. The Council have not directed me to any other available sites, within its area or surrounding authorities, despite the appellants indicating that a local authority run pitch would be acceptable to them. The pitches identified in the Council's five-year supply are not currently available/operational and other local authority sites seem to be full and subject to a waiting list and limited turnover. The three families have apparently

⁵ Braybrooke Road and Park Lane

considered sites elsewhere, including Norfolk, to no avail. Accordingly, at least two of the families are in acute accommodation need and this need cannot currently be met. Mr and Mrs T Holland are also in accommodation need and it may be possible for this to be met through the available pitch, although this would separate them from Mr and Mrs I Holland and thus undermine the traveller way of life, which often involves living in extended family groupings.

48. Without a permanent base they would have to continue living on the roadside. This would be at odds with the aim in the PPTS to facilitate the provision of settled bases. As such, the evidence before me indicates there are limited accommodation options available for the two families other than establishing their own windfall site. There is nothing before me to suggest Mr and Mrs T Holland, Mr A Holland and Mr I Holland could live in bricks and mortar housing. Thus, their accommodation needs are a significant point in favour of allowing the proposal as this would deal with their need for a settled home.

Other personal circumstances

49. The PPTS seeks to facilitate the traditional and nomadic way of life of travellers by providing settled bases from where healthcare and education can be accessed. The appellants have confirmed that without a settled base/address it has been difficult to balance their traditional way of life with the practical realities of modern living, such as registering a vehicle or opening a bank account. Access to regular and stable healthcare is particularly important in this instance given the medical conditions experienced by some members of the families. Facilitating this balance is an important part of achieving the sustainability sought by Paragraph 13 of the PPTS. This weighs in favour of permitting the pitches, especially as refusing the appeals would increase the likelihood of another unauthorised encampment occurring due to the lack of alternatives. Such a roadside existence would benefit no one.
50. Moreover, Article 3(1) of the United Nations Convention on the Rights of the Child states that the best interests of a child shall be a primary consideration. This means no other consideration is more important. In respect of Appeal A, some of the children attend local schools and one has a serious medical condition that requires hospital visits. In respect of Appeal B most of the children are of school age or will be soon. One child has special educational needs and another a medical condition that requires regular hospital visits.
51. All the indications before me are that if the appeals are dismissed the families would have to return to a roadside existence. This would place stress upon the children. Moreover, if they are unable to find a settled base locally, and there is little evidence that they will, then the children's education and health care would be disrupted with the inherent, and likely significant, disadvantages this would entail. Thus, their best interests would be served by establishing a settled base so there is certainty over where they will go to school and receive medical treatment. An enduring settled base would also support the children's welfare more generally by, for example, affording them a sense of security and continuity and enabling them to attend clubs and make friends.
52. Moreover, and in respect of Appeal A, due to the uncertainty and ad hoc arrangement of the pitch, the family are currently split with Mr A Holland's partner living in bricks and mortar housing as a short-term solution for the children's welfare. Mr A Holland cannot live in such accommodation. Thus, allowing the appeal would reunite the family with the benefits this would bring.

Furthermore, In respect of Appeal B, living within an extended family grouping that includes their Grandparents would also advance their best interests as it reinforces their cultural traditions.

Temporary or permeant permission

53. The appeal schemes would result in significant harm to the character and appearance of the countryside and I am not satisfied, from the information before me, that this can be mitigated to a sufficient degree. The proposals would also result in development in the countryside away from settlements. There has also been intentional unauthorised development. As such, the significant level of harm that would occur from both appeal schemes, cumulatively or individually, indicates that the proposals would be contrary to the development plan as a whole and therefore a permanent permission would be undesirable.
54. That said, the Council are currently unable to demonstrate a five-year supply of pitches. The appeal decisions referred to by the appellants suggest this has been an ongoing problem that amounts to policy failure. The PPTS states that the inability of a local planning authority to demonstrate an up to date five-year supply of deliverable sites should be a significant material consideration in considering an application for a temporary permission. The applications have not been framed as seeking a temporary consent, but the appellants have advanced this as an option to be considered.
55. Moreover, two of the households have specific needs for larger plots given the sizes of the families and it is unlikely this need will be met locally for some time. Mr and Mrs T Holland's accommodation needs are not as acute because a pitch is available at The Pastures. However, living in extended family groups can often be part Traveller culture so I can understand the desire to live with Mr and Mrs I Holland. Furthermore, dismissing the appeals would not meet the best interests of several children and would not advance equality of opportunity or minimise some of the disadvantages that are connected to a nomadic habit of life.
56. The Council have advised that they are currently working on a Gypsy and Traveller Site Allocations Development Plan Document, although they have been advising Inspectors of something similar for several years⁶. Nevertheless, decoupling the preparation of the site allocations document from the Local Plan Part 2 can explain some of this delay. The current Local Development Scheme (LDS) has the document programmed for adoption by April 2022 with consultation in Jan-March 2021. There has already been slippage in the timetable but the inclusion of an allocations document in the LDS seems a positive step. The Council will no doubt be aware that if it flounders on producing a site allocations document then it will probably become more difficult to resist sites in sub optimal locations. This will give it the impetus to see through the production of the allocations document.
57. This process could provide a route for identifying pitches for all three households which meet their accommodation needs in a more satisfactory way than the appeal sites would. Preparation of the document should advance over the next couple of years with applications and site delivery the following year. It is therefore likely that circumstances will be very different in three years.

⁶ APP/L2820/W/15/3131916, APP/L2820/W/15/3139293 and APP/L2820/W/16/3144399

58. A temporary permission would ensure the harm was short lived and that the families' circumstances need not change immediately. It would allow time for the appellants and the Council to find a long-term solution. Thus, a three-year temporary permission would be reasonable in this instance based on the information before me.
59. In arriving at this view, I accept there will be some practical issues. The sites would need to be rearranged to adhere to the submitted drawings and the appellants will be reluctant to invest in the site and therefore its highly unlikely a landscaping scheme and perhaps, a permanent drainage solution, would be forthcoming. However, this would be tempered by the temporary nature of the harm. If a permanent solution has not materialised at the end of the period then it would be for future decision makers to consider matters at the time, including whether there are suitable alternative pitches. Thus, the occupation condition suggested by the appellants is unnecessary.
60. A temporary permission would be a proportionate response that balances the qualified Article 8 Human Rights of the appellants for respect of private and family life and home with the proper planning of the area and its economic well-being, including the protection of the environment.

Other Matters

61. It is possible to see the Church of St Mary the Virgin at Brampton Ash from vantage points directly outside the appeal sites. The church is Grade I listed. Much of the architectural value of the building is experienced from close range, but it does have a considerable presence in the landscape which provides aesthetic and historic value and significance. The appeal site is not particularly important to how these values are experienced due to the distance, topography and intervening landscaping. As a result, the way the setting and significance of the church is experienced would be preserved.
62. The appeal schemes would adversely impact the character and appearance of the area and have not been subject to several temporary consents. As a result, there are material differences to the circumstances identified in an appeal referred to by the appellants⁷. I have also considered the other appeals referred to by both the Council and appellant. However, the schemes before me turn on the personal circumstances of the appellants and the localised impacts. Accordingly, the other appeal decisions are of limited relevance.
63. The appellants have referred to *Designing Gypsy and Traveller Sites: A Good Practice Guide*, but this document has been cancelled and therefore carries very limited weight. Interested parties have raised concerns about the activity at the site and the conduct of the occupants including hare coursing, fires, dogs barking and raised voices. Such matters are not inherent to the use of land being applied for and are covered by other legislation. I also note that the Crime Prevention and Design Advisor raised no objections. As such, these points are not determinative.

Conditions

64. Although it bears little relationship to the drawings, development has commenced at both plots. As a result, a commencement condition is not necessary. However, arranging the plots and pitches in accordance with the

⁷ APP/L2820/W/15/3131916

drawings would have a lesser impact on the visual amenity of the area than the current arrangement and therefore a condition requiring adherence to the drawings is necessary. However, I have not attached a landscaping condition because this would be unreasonable and ineffective given the temporary nature of the proposals.

65. The proposals are acceptable for a temporary period, in part, due to the personal circumstances of the intended occupiers. Therefore, it is necessary to impose personal permissions. As the permissions would be personal and temporary, and the occupants meet the planning definition of a Gypsy and Traveller, a condition limiting occupation to those meeting the definition is unnecessary in this instance.
66. As only three pitches have been justified it is necessary to secure this in the interests of certainty. It is necessary in the interests of safeguarding the character and appearance of the area to limit the number of caravans permitted, the extent of external lighting and to limit commercial activity. There is ample space for off road parking so a condition in this respect is unnecessary.

Conclusions

67. Neither of the appeal schemes would adhere to the development plan. However, there are material considerations which, when taken with a temporary permission, indicate the appeals should be determined otherwise than in accordance with the development plan and allowed, albeit for a temporary period of three years.

Graham Chamberlain
INSPECTOR

Schedule of Conditions – Appeal A

- 1) The development hereby permitted shall be for a limited period being the period of 3 (three) years from the date of this decision. Thereafter, the development hereby permitted shall be discontinued and all mobile homes, caravans, structures, vehicles, materials and equipment brought on to or erected on the land, and/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.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location Plan and Pitch Plan drawing 00(02)
- 3) The mobile homes hereby permitted shall not be occupied other than by the following: Mr A Holland Jr, his partner Ms S Ingram and their resident dependent children.

When the land ceases to be occupied by those named above, the use hereby permitted shall be discontinued and all mobile homes, caravans, structures, vehicles, materials and equipment brought on to or erected on the land, and/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 one pitch within the site. On or within this pitch no more than four caravans shall be stationed at any one time, of which no more than three shall be mobile homes or static caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.
- 5) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.
- 6) No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and no commercial activities shall take place on the land, including the storage of materials, plant or waste.

End of Schedule

Schedule of Conditions – Appeal B

- 1) The development hereby permitted shall be for a limited period being the period of 3 (three) years from the date of this decision. Thereafter, the development hereby permitted shall be discontinued and all mobile homes, caravans, structures, vehicles, materials and equipment brought on to or erected on the land, and/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.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan and Pitch Plan drawing 00(02)
- 3) The mobile homes hereby permitted shall not be occupied other than by the following:

Pitch 1 - Mr and Mrs T and S Holland

Pitch 2 - Mr and Mrs I and S Holland and their resident dependent children

When the land ceases to be occupied by those named above, the use hereby permitted shall be discontinued and all mobile homes, caravans, structures, vehicles, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored in accordance with a scheme and timetable that has been submitted to and approved in writing by the Local Planning Authority.

- 4) There shall be no more than two pitches within the site. On each of the two pitches hereby approved no more than two caravans shall be stationed at any one time, of which no more than one shall be a mobile home or a static caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.
- 5) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.
- 6) No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and no commercial activities shall take place on the land, including the storage of materials, plant or waste.

End of Schedule