

Appeal Decisions

Hearing Held on 1 & 2 December 2020

Site visit made on 10 March 2021

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2021

Appeal A Ref: APP/W3520/W/20/3248955

Land north of Glebe Close, Church Lane, Baylham, Ipswich, IP6 8JS

- 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 Martin Doherty against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/04029, dated 23 August 2019, was refused by notice dated 7 January 2020.
 - The development proposed is Change of use of land to residential with the development of a single storey dwelling through the conversion and extension of the existing stable building together with the provision of hard standing and associated landscaping.
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Appeal B Ref: APP/W3520/W/20/3248961

Land north of Glebe Close, Church Lane, Baylham, Ipswich, IP6 8JS

- 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 Martin Doherty against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/04028, dated 23 August 2019, was refused by notice dated 7 January 2020.
 - The development proposed is Change of use of the land to Gypsy and Traveller residential with the siting of one mobile home and one touring caravan together with the construction of hard standing and associated landscaping.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Application for costs – Appeal B

3. At the Hearing an application for costs was made by Mr Martin Doherty against Mid Suffolk District Council. This application will be the subject of a separate Decision.

Background and Main Issues

4. The National Planning Policy Framework (the Framework) was revised on 20 July 2021. The parties were consulted on this and no additional comments were submitted. The appeal is considered on this basis.

5. The site benefits from planning permission for the keeping of a horse, erection of stables and a tack room which has been implemented on site¹.
6. The Appellant has referred to a previous appeal at the site that was dismissed². This scheme was for the change of use of land from paddock for the siting of 1 static caravan and 1 touring caravan for occupation by Gypsies/Travellers, alterations to vehicular access, construction of hard standing and erection of perimeter fencing. This decision is a material consideration. Nevertheless, I have considered the appeal before me on its merits based on the evidence presented to and heard at the Hearing.
7. The Appellant seeks planning permission for two different schemes at the same site. Appeal scheme A is for the conversion and extension of the existing building to form a dwelling and Appeal scheme B seeks to use the site for the siting of a mobile home and touring caravan for occupation by Gypsy and Travellers.
8. Accordingly, the main issues in the appeals are as follows:

Appeals A & B

- The effect on the character and appearance of the area;
- Whether the appeal site is a suitable location for the proposed development, having regard to local and national policies;
- Whether other material considerations outweigh any harm identified such as to justify the development; and
- The effect on the protected habitats of the Stour and Orwell Estuaries SPAs.

Planning Policy

9. In determining both schemes in its decision notices the Council has referred to policies SB3 and CL2 of the Mid Suffolk Local Plan (LP), CS5 of the Core Strategy (CS) and FC1 and FC1.1 of the Mid Suffolk Core Strategy Focussed Review (CSFR).
10. It was agreed that the emerging plan is at regulation 19 stage and as such it has not yet been examined and found sound. As such the policies from it can only be afforded limited weight.
11. LP Policy CL2 sets out that within a Special Landscape Area (SLA) development should be sensitively designed with a high standard of layout, materials and landscaping. The reason for this is in order to safeguard the landscape quality within SLAs. Policy CS5 is described by the Council as a supporting policy to CL2. It seeks to maintain and enhance the environment and that it will protect and conserve landscape qualities and encourage development that is consistent with conserving the overall character of the district. LP Policy SB3 seeks to protect Visually Important Open Spaces (VIOS) due to the contribution they make to the character and appearance of their surrounds and their amenity value for the local community. CS Policy CS10 is referred to in the decision for Appeal B which is specific to the provision of gypsy and traveller sites.

¹ LPA Ref DC/12/2276

² APP/W3520/W/16/3146040

12. Whilst not referenced within the reasons for refusal CS policy CS2 is referred to in the officers report and is specifically concerned with development in the countryside. It sets out that development in the countryside will be restricted to defined categories. The policy makes an exception for the provision of sites for gypsies and travellers.
13. There was agreement at the Hearing between the Appellant and the Council that the most important policies in determination of the appeals are CS2, CS10, SB3 and CL2. Indeed, there was agreement that as a collective basket that they are out of date due to inconsistency with the National Planning Policy Framework (the Framework). As the most important policies are out of date this would trigger paragraph 11 d ii of the Framework. However, there was disagreement regarding the weight that could be attached to them in determining the case for the appeals.

Reasons

14. The village of Baylham is designated as being in the countryside for the purposes of applying planning policy. The appeal site for both schemes would be adjacent to Glebe Close and beyond the existing dwellings and therefore in the countryside for policy purposes.
15. Appeal A does not include a restriction on the occupation of the dwelling and the use of the land is described as residential. As such the exceptions set out in CS2 are not applicable. Therefore, in the case of Appeal Scheme A there is clear conflict with the development plan in terms of the settlement strategy and this is a matter I return to in the planning balance.
16. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) advises that local planning authorities should very strictly limit traveller sites in the open countryside that are away from existing settlements but does not rule out sites in rural locations. Policy CS2 is clear that development in the countryside should be restricted. However, it does identify sites for gypsies and travellers as an exception to that. CS10 is also specific to the provision of gypsy and traveller sites and it is criteria based. Therefore, whilst policies do not rule out consideration of gypsy and traveller sites it does apply strict criteria which I return to in the planning balance.

Character and Appearance – Appeals A & B

17. The site is covered by two designations, an SLA and a VIOS. In this case the SLA covers a very large area on both sides of the Gipping Valley. The area is part of the Rolling Valley Farmlands landscape character type. The key characteristics of this character type are identified as including small ancient woodlands on valley fringes, sunken lanes and organic patterns of the small fields. This area of the village is depicted on the VIOS plan³. The Framework sets out the need to protect and enhance valued landscapes and recognises the intrinsic character and beauty of the countryside.
18. The overall pattern of development is one of residential dwellings within generous plot sizes. The properties in Glebe Close are pairs of dwellings which also have generous plots and space around them. I understand that the Appellant acknowledges the countryside designation of the site but nonetheless describes it as being in a transitional zone. This view is one that is supported

³ Submitted by the Parish Council

by the previous Inspector's decision which found that '*...the parcels of land are important in providing a visual transition from the residential curtilages and street pattern of the adjoining part of the village, and the open countryside..'* and that '*...The Visually Important Open Space provides a further softening of the character and appearance leading to the truly rural agricultural fields beyond...'*'.

19. The existing stable building is a low level timber building which sits on a brick plinth with a tiled roof. The top of the building is glimpsed from Church Lane and amongst the backdrop of existing dwellings in the locality. As a result, the site in its current form does make a contribution to the transitional character of this edge of settlement location beyond Glebe Close. In particular the footprint of the existing building is limited and its scale and form are low level and sympathetic to its rural location.
20. The works proposed to accommodate Appeal A would involve the extension of the existing stable building on the site to form a dwelling. The building would require a substantial increase in its built form to accommodate a kitchen, bedrooms and bathrooms. The site layout plan shows that a patio would be introduced to the front of the building and an extensive parking and turning area. These works to extend and increase the built form would mark an intrusion into the countryside location.
21. The works proposed to accommodate Appeal B would include the siting of a mobile home close to the stable block. The site plan also indicates that a patio area would be provided, a plot for a touring caravan and a parking and turning area. In terms of policy CS10 and the requirements of the PPTS which seek good design and layout for new Gypsy and Traveller pitches taken in isolation the internal layout of the scheme would be in accordance with this policy.
22. Both schemes include a garden area, provision of a paddock and new native tree and hedgerow planting along the site boundaries. A substantial area of 'new woodland' is indicated to be provided at the far end of the site where is has a boundary with Church Piece. However, in both cases the site is shown to be bounded by either 1.8m or 2m high close boarded fence on all sides. I appreciate that this would not be a significant change from the existing situation where the stable building is contained by fencing. However, whilst the layout would include significant landscaping it would be within fencing to all side, as annotated on the plans. In this regard it would in combination with the increase in domestic forms on the site cause harm, even taking into account the reduced weight to the designations on the site. This would remain contrary to 26(d) as identified in the previous appeal decision (paragraph 19).
23. The pattern of development is such that there is not a clearly defined edge to the village. The position of the additions for Appeal A would relate well to the existing built form on the site. The design and appearance would be similar to the existing building and therefore in terms of internal layout it would sit comfortably on the site. Similarly, the location of the mobile home would minimise the intrusion of the new use onto the site. Nevertheless, in both cases, the increase in footprint that would be required to create the schemes and the ancillary elements of the schemes would mark an overall increase in the presence of domestic uses on the site, which would be intrusive.
24. In terms of the wider landscape character the site is a small field on the edge of Baylham. The wider landscape evident from the footpath network is fields

interspersed with hedgerows. However, in contrast to the landscape beyond Church Lane and Glebe Close it appears more contained. Longer views of the site are extremely limited. As such its main relationship is to the dwellings along Church Lane and within Glebe Close, within the transitional context of this part of the village. Therefore, the impacts on the wider landscape designation would be low.

25. Overall, taking into account the design, scale, layout and scale of both Appeal Scheme A and Appeal Scheme B I consider that it is likely that the impacts from the new built form would be views from Church Lane and gardens/land associated with nearby properties. In this regard due to the countryside location predominantly open land would be lost and there would be harm to the transitional rural edge of Baylham.
26. I therefore conclude that both schemes would lead to harm to the character and appearance of the area. Consequently there would be conflict with policies CS policy CS5 and SB3 and CL2 of the Mid Suffolk Local Plan (LP) which amongst other things seek to protect landscape quality and seek sensitively designed new development that reflects local distinctiveness and is consistent with overall character.

Whether the appeal site is a suitable location for the proposed development - Appeals A & B

27. The village of Baylham is located within the Mid Suffolk District which is a large rural district and the appeal sites would be located on the village periphery.
28. There are public footpaths close to the appeal site that provide links with Great Blakenham. There are a few services in Baylham. Great Blakenham is better served and has onward links to Claydon, Needham Market and Ipswich. I understand that Great Blakenham has a good range of services and some may be accessible on foot from Baylham. Nonetheless, the distance of the majority of these services would be beyond a reasonable walk and would not necessarily include things such as major supermarkets. In addition, the choice of routes would be unmade and unlit footpaths or along a busy main road. Therefore, overall, I consider that there would be some inherent barriers to residents of the appeal site accessing facilities on foot.
29. Access to the bus stop was considered in the previous Inspector's decision⁴. At the Hearing I was not referred to any significant change in circumstances since that decision was made. In addition to this the Appellant acknowledged that there is a lack of services and that the future occupants of the site would be reliant upon the private car, which the Parish Council submitted would not be a location for a dwelling that national policy would support. The Appellant submits that the travelling community has to acquire land where they can and make the best use of it due to lack of allocation. Nonetheless, given the peripheral village position and the lack of access to alternative modes of transport the sites location does not weigh in favour of the scheme.
30. The Appellant also argued that, overall, the appeal schemes would represent sustainable development and would be an effective use of land. More specifically that the PPTS sets out at paragraph 13 that '*...Local planning authorities should ensure that traveller sites are sustainable economically,*

⁴ Paragraph 27

socially and environmentally... and it goes on to set out criteria for local policies. In this case the Appellant considers that part (d) is applicable which sets out that *'...provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment...'* In this case it is not disputed that the Appellant does not reside on an unauthorised encampment but on a specific site, albeit in a neighbouring local authority area. Therefore dismissing the appeal schemes would not necessarily lead directly to the impacts that the PPTS seeks to avoid at para 13.

31. The Parish Council and local Councillors raised concerns regarding the walk from the site to school for future occupants of the schemes. The road is narrow and I agree that the route for pedestrians would not be conducive to encouraging walking and cycling. However, overall, this issue alone would not be determinative.
32. Overall, taking all of these matters into account the site due to its peripheral village location cannot be considered to be sustainable development. As such it would be in conflict with policy FC1.1 and the Framework.

Other material considerations

33. The Council did not refuse the scheme on issues pertaining to Gypsy and Traveller matters. However, the Appellant has submitted that their personal circumstances are a material consideration. In addition the Appellant considers that the real level of need for sites is considerably higher than the Council suggest, Council sites are full, concern about the large site the Council refers to being available and issues in finding a site generally for the Traveller community. As such these matters were considered at the Hearing.

Gypsy Status

34. The Appellant's Gypsy status was considered in paragraphs 5-8 of the previous appeal decision⁵. The Appellant's position set out in the statement of case⁶ is that nothing has changed since that decision to alter this. This is not disputed by the Council⁷. That said paragraph 5.4 of the statement outlines that the Appellant is from an Irish Traveller background and his wife is a Romany gypsy. Neither has lived in a house and that both of them were brought up travelling with their families.

Personal circumstances & Alternatives

35. The Appellant owns the site and indicated to me that he has since around 2010. The site has a stable building on it and at the time it was built it was required as the Appellant's daughters rode horses. He outlined to me that there are security issues about continuing to keep horses at the site without being there.
36. The appeal scheme would be occupied by the Appellant, his wife and their three children. The youngest attends a local primary school whilst the middle child is currently home educated and this would not change. It is an undisputed fact that the Appellant and his family currently live on a site in

⁵ APP/W3520/W/16/3146040

⁶ Paragraph 5.6

⁷ Point 1 Statement of Common Ground

Ipswich and have done so for some time. The Appellant explained that he wishes to move to the appeal site to improve the living conditions of his family. In particular that he could store his own tourer and it would be preferable for his family to be on a site they own and have stability when he is away.

37. The Appellant also explained to me the difficulties he has encountered in seeking to source land. For example he has tried to buy other sites without success and affordability remains a barrier. He was clear that if the appeal was dismissed then the options available are very limited. In addition he is in need of surgery himself but has been putting this off due to living conditions on the current site he resides on⁸.
38. The Appellant has expressed a clear preference for occupation of the appeal site. In addition to this I acknowledge that there would be some improvements to the living conditions of the family in terms of security and stability. The appeal scheme would provide an alternative settled base to the site on which the Appellant and his family currently reside. They would continue to access education and health care, which would accord with the aims of the PPTS. Nonetheless, there is no evidence that this would significantly change compared to the existing situation. As such this reduces the weight given to this matter as a benefit of the scheme. Taking this into account and the fact that the family already have accommodation I attach limited weight to this matter.

The need for and supply of gypsy sites

39. Paragraph 25 of the PPTS is clear that new sites in the countryside should be strictly controlled and careful consideration given to the scale, location in relation to existing settlements and dominance of the nearest settled community. Policy CS10 of the Mid Suffolk Core Strategy deals with gypsy and traveller development and sets out criteria for proposals. In particular that a scheme should meet an identified need, not normally exceed 15-20 pitch numbers, provide good pitch sizes, be of a good design and layout and mitigate impacts on visual amenity. The overall aim and purpose of CS10 is for the Council to deliver sufficient good quality, appropriately located residential pitches to meet the unmet need.
40. The delegated report for Appeal B identified the response provided by the Council's Strategic Housing section. This sets out that the most recent assessment of accommodation needs for Mid Suffolk district. The Appellant and Council both refer to the Gypsy, Traveller, Travelling Showpeople and Boat Dwellers Accommodation Needs Assessment (ANA) for Babergh, Ipswich, Mid Suffolk, Suffolk Coastal and Waveney May 2017. The ANA forms part of the evidence base for the emerging Local Plan. This summarises the need for permanent residential site pitches⁹. The Appellant is concerned that this shows a shift from shortage of 16 pitches to a surplus of 5. This report¹⁰ identified within the ANA additional residential pitch requirements from 2016 to 2036 for Mid Suffolk as 9. An alternative figure was provided as part of the study and increased the need to 30. However, the Council submit that since then it has been determined that 9 is the relevant figure¹¹. The figure of 30, which is

⁸ Para 5.10 of SOC

⁹ Page 75 Joint Local Plan -Pre Submissions (Reg 19) November 2020

¹⁰ section 6

¹¹ Table 6.4 page 74 ANA

placed in brackets in table A.7¹² of the report, is based on a possible scenario where 21 pitches are not available.

41. The footnote to table A.7 sets out '*...A site in Mid Suffolk is believed to have been sold. It includes 16 vacant and 5 occupied pitches at the time of the survey. It is possible that the site might not be available to Gypsies and Travellers and therefore may be removed from the supply and added to need...*' This relates to a specific site which the Appellant submits has not in fact been occupied by the Gypsy and Traveller community. The Council outlined that these pitches are all private but there is no evidence they are not available and as such should not be discounted. In addition the footnote to the plan goes onto explain this in the same manner as the ANA. Specifically, it sets out that '*...The figures in brackets in the table above are based on a possible scenario of 21 pitches not being available. However, since the Accommodation Needs Assessment (ANA) evidence was produced the 21 pitches are available. In accordance with the Babergh and Mid Suffolk Gypsy and Traveller monitoring of January 2020, there are currently 88 pitches in Mid Suffolk...*'.
42. The Appellant is concerned that surveying actual need is hard and referred me to updated information from the caravan count (Hearing document ref H1) for a period from 2015-2020. However, the ANA makes clear reference to the caravan count and its role in estimating the number of Gypsy and Travellers in the area and thereby estimating the population for whom provision should be made. Nevertheless, the ANA is clear that the purpose of the count should be to determine general trends. In addition it is the Appellant's view that, as he has been able to purchase a site, if he and his family move onto it then it would free the current pitch up for another family in an area where need is high. Private sites such as the one Mr Doherty intends to establish are an aim stated in paragraph 4e of the PPTS. However, this would be a very limited contribution to supply overall.
43. I have carefully considered the points made by the Appellant. Nonetheless, the most up to date evidence of the Accommodation Needs Report and AMR both indicate that the Council has enough sites. I understand that the Appellant is not convinced of this and that the fact that the 21 pitches referred to in table are not available to Gypsies and Travellers supports this. Further that the ANA confirms that the Council do not own any sites and therefore the reliance is on private sites. In addition, it is the Appellants position that there is no allowance for net movement, based on the evidence of in migration in paragraph 4.10 of the ANA. However, I have no substantive evidence on this point either way nor to suggest that the 21 pitches should be discounted from the supply (para 10 of PPTS). Based on the evidence before me I am satisfied that there is not an unmet need or shortfall of pitches.

The effect on the protected habitats of the Stour and Orwell Estuaries SPAs

44. The appeal scheme proposes a dwelling on a site that lies within the Zone of Influence of the Stour and Orwell Estuaries SPA. The interest features of the SPA include the fact that in summer, the site supports important numbers of breeding avocet, while in winter it holds major concentrations of waterbirds, especially geese, ducks and waders.

¹² Page 119 of the ANA.

45. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPA. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
46. Since the development is for one dwelling only, whether that is Appeal A or Appeal B, the number of additional recreational visitors would be limited and the likely effects SPA site from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
47. The site is less than 1km from the SPA and at such close distance new residential development is likely to result in recreational pressure, which would, both alone and in combination with other development within the wider 13km zone of influence, have a likely significant effect on the interest features of the aforementioned site. Therefore, I consider that the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
48. The Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England (NE), I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPA.
49. The Appellant has indicated that he has made a per dwelling contribution to fund the Suffolk Recreational Avoidance Mitigation Strategy (RAMS). The Council has stated that the payment has been made and that their second reason for refusal has been addressed for both appeals. NE has also confirmed that they are content that this payment secures the deliverability of the measures. Given the evidence before me I am satisfied that the mitigation measures have been secured.
50. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.
51. Consequently, the proposal would not adversely affect the integrity of the SPA site in accordance with the Recreational Disturbance Avoidance and Mitigation Strategy.

Other matters

52. The Parish Council and local residents referred to the provision of a passing place. The Local Highway Authority raised no objection to the schemes as presented. The passing place is described as 'useful' and not essential for highway safety. Therefore, it would not meet the tests set out in the Framework to be secure by condition or planning obligation.
53. I have been referred to other appeal decisions in the locality¹³. In both cases the schemes are not directly comparable to the appeal schemes. The scheme reference 3243146 was for an eco-home and 3222557 for a single dwelling and garage. Both have different main issues to these appeals. As such I attach very limited weight to them.
54. The Appellant's ecological advisor was present at the Hearing. He explained that ponds are known in the broad location of the appeal site in Baylham but there were issues gaining access to them. Therefore, the agreed way forward with NE and the Suffolk Wildlife Trust (SWT) was to exclude these ponds from the ecological assessment as it is known that Great Crested Newts are likely to be present. NE have accepted this position and the SWT are satisfied with the measures and agree about the impacts.
55. Abbots Mead is a Grade II listed building located to the west of the appeal site. The listing description describes it as dating from 1600 or earlier and being timber framed with a pantile roof and casement windows. This would suggest that its significance and special interest is derived from the age, form and fabric of the building. The building is glimpsed from within the appeal site and from Church Lane. The appeal schemes would be low level and located at the eastern end of the site. This would place a substantial distance between the schemes and the boundary with Abbots Mead and the impact would be neutral. As such I consider that the schemes would preserve the setting of the listed building.

Planning Balance and Conclusion

Appeal A & B

56. The appeal site is located in the countryside and the provision of a new dwelling (with no restriction on occupation) would be in clear conflict with CS policy CS2. I give full weight to the policy in this context as it is consistent with the Frameworks objective to recognise the intrinsic character and beauty of the countryside. There would also be harm to the character and appearance of the area. There would be conflict with the development plan in this regard which is a matter of significant weight.
57. Appeal scheme B would make provision for a Gypsy and Traveller site. This is identified as a potential exception in the countryside within CS2 and the development plan contains policy CS10 which refers specifically to the provision of Gypsy and Traveller sites. Nevertheless, The most up to date information indicates that there is not an unmet need. The Appellant considers that a move to this site would free up a pitch for another family. This is a benefit but overall based on the evidence before me the issue of supply of traveller sites would not attract significant weight in favour of the scheme.
58. For both schemes there would be some harm from the location of the site in so far as the matter of the sustainability of the location and dependency on the

¹³ APP/W3520/W/19/3243146 [H2]; APP/W3520/W/19/3222557; Appellant's appendix 8.8

private car are concerned. The schemes would provide appropriate mitigation in accordance with the Recreational Disturbance Avoidance and Mitigation Strategy.

59. As the most important policies for determining the appeal are out of date then the tilted balance is applied in both appeals. In this case in Appeal A the harm would be from the provision of a dwelling in the countryside that would be in conflict with the development plan. This is a matter to which I attach substantial weight. In addition there would be some harm to character and appearance and location and there would be conflict with the development plan in this regard which is a matter of significant weight. Therefore, any benefits arising from this would be significantly and demonstrably outweighed by the provision of a dwelling in the countryside. As such the Framework is a material consideration which weighs against this scheme.
60. The harm from Appeal scheme B would be the harm to character and appearance. There would be conflict with the development plan in this regard which is a matter of significant weight. This harm would significantly and demonstrably outweigh any limited benefit that may derive from providing a scheme that would contribute to the supply of pitches for gypsy and traveller sites in the district. Consequently, the proposal would not benefit from the presumption in favour of sustainable development as defined in the Framework and the Framework is therefore a material consideration which weighs against the scheme.
61. Planning law requires that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration. However, in the circumstances of both appeals the other material considerations do not justify making a decision other than in accordance with the development plan.
62. The Appellant has applied for full planning permission for Appeal Scheme B. Nonetheless I have considered whether a temporary planning permission with a limited period would to some extent lessen the scheme's impact on the character and appearance of the area and reduce the amount of resultant harm.
63. The Planning Practice Guidance (PPG) sets out that circumstances where a temporary permission may be appropriate include where it is expected that the planning circumstances will change in a particular way at the end of that period. Where there is no clear timetable, or reasonable expectation of change in circumstances within a definite and foreseeable period, a temporary planning permission is unlikely to be appropriate. There is nothing to indicate that there is a reasonable expectation of a change in circumstances in the foreseeable future. As such a temporary permission would not be justifiable in this case.
64. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the Appellant's individual rights for respect for private and family life (along with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.

65. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since the Appellant is from an Irish Traveller background and Mrs Doherty is a Romany Gypsy Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons (the Appellant and his family) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the Act.
66. The negative impacts of dismissing the appeal on the Appellant and his family arise since they would not be able to live on the appeal site. This would interfere with the best interests of the children and each member of the family's right for respect for private and family life and lends additional weight in favour of the appeal. However, I have found that the proposal is harmful to the character and appearance of the area and am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect the countryside and character and appearance of the district in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the Appellant and his family are necessary and proportionate.
67. Therefore, the other considerations in this case and benefits of the proposals, even taking into account the family's Article 8 rights and the PSED considerations, do not outweigh the harm identified and as such the development would not be justified either on a permanent or a temporary basis.
68. Overall, for the reasons given above, and having regard to all other matters raised, I conclude that Appeal Schemes A and B should be dismissed.

D J Board

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Hargreaves	Agent
Mr Doherty	Appellant
Chris Smith	Ecologist

FOR THE LOCAL PLANNING AUTHORITY:

Daniel Cameron	Mid Suffolk District Council
Jon Pateman Gee	Mid Suffolk District Council

INTERESTED PERSONS:

Mr Thomas	Chair of Baylham Parish Meeting
Cllr Field	Mid Suffolk District Council

DOCUMENTS SUBMITTED AT THE HEARING

- H1 Updated caravan count information
- H2 Appeal decision APP/W3520/W/19/3243146
- H3 Additional condition – alternative permissions
- H4 Email exchange re RAMS payment

DOCUMENTS SUBMITTED AFTER THE HEARING

- H5 Final suggested conditions Appeal A & Appeal B