
Appeal Decision

Site visit made on 31 January 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/J0405/W/21/3266711

Land adjacent to Dun Romain Park, Whitfield Road, Buckinghamshire NN13 5TD

- 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 Hughie Doherty against the decision of Buckinghamshire Council.
 - The application Ref 19/02068/APP, dated 28 May 2019, was refused by notice dated 9 September 2020.
 - The development proposed is described as 'Change of use of land from agricultural to a mixed use for the creation of two Gypsy pitches & associated works, and the construction of stabling tack room / feed store and fodder storage'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agriculture to a mixed use for the creation of two pitches for occupation by Gypsies and Travellers and associated works, and the construction of stabling tack room/feed store and fodder storage at Land adjacent to Dun Roamin Park, Whitfield Road, Buckinghamshire NN13 5TD, in accordance with the terms of the application, Ref: 19/02068/APP, dated 19 May 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the Council issued its decision, it has adopted the Vale of Aylesbury Local Plan 2013-2033 adopted September 2021 (VALP). This has replaced the Aylesbury Vale District Local Plan. It is incumbent upon me to base my decision upon the most up to date planning policy and this is what I have done. The appellant and Council had an opportunity to address this change in policy.

Main Issues

3. The main issues in this appeal are: 1) Whether the appeal site is a suitable location for the proposed pitches with reference to the spatial strategy in the development plan and the accessibility of services and facilities; and 2) The effect of the proposal on the character and appearance of the area.

Background

4. The Planning Policy for Traveller Sites (PPTS) sets out the Government's planning policy on such matters and applies when the occupiers of a proposed site would meet the definition of a Gypsy and Traveller for planning purposes.

5. The appellant has confirmed that the two pitches being applied for would be occupied by the following residents:
 - Pitch 1 – Mr H Doherty, Ms S Smith, their children, and Ms B Doherty¹.
 - Pitch 2 – Mr F Doherty, Ms M Quinn and their children.
6. The appellant submits that he and his brother are horse dealers and travel for work. They attend and trade at the traditional fairs. The older children often accompany them as they wish to learn the family business and because this lifestyle is part of their culture. It is unclear whether Ms S Smith, Ms M Quinn and the younger children travel.
7. Little evidence has been supplied by the appellant to demonstrate a nomadic habit of life. In effect, reliance is placed on a letter from Professor Acton. Nevertheless, the Council has not taken an alternative view or suggested the submissions are inconsistent or inaccurate. Accordingly, there is nothing of substance before me to suggest the future occupants of the two pitches, when considered as family units, do not travel for economic reasons and thus follow a nomadic habit of life. Accordingly, they currently meet the definition in the PPTS and consequently the policies within it are relevant to my assessment.

Reasons

The suitability of the appeal site – Spatial Strategy

8. Policies S6 and D11 of the VALP set out the spatial strategy for providing pitches for Gypsies and Travellers that meet the PPTS definition. Policy S6 identifies the 'potential' need for 84 permanent pitches between 2016 and 2033. This figure was established following the most recent GTTSAA². The GTTSAA study initially identified a need for 8 pitches from those that are known to meet the PPTS definition. However, it was not possible to accurately establish whether those identified as possibly meeting the definition did. As a result, there was quite a high level of potential or 'unknown' need.
9. This is significant because if the 'unknown' need included Travellers that meet the PPTS definition, then their accommodation needs should be planned for pursuant to the PPTS. However, if they do not meet the definition then their accommodation needs should be addressed pursuant to Paragraph 62 of the National Planning Policy Framework.
10. To address this, ORS (the authors of the GTTSAA) recommended that it is likely, from a review of national data, that 10% of the 'unknowns' are likely to meet the definition. They therefore suggested that the need be increased by a further 8 pitches. Nevertheless, in more recent assessments elsewhere, ORS has increased the figure to 25-30%. Thus, a 10% uplift may be conservative, which is a point raised in relevant appeal decisions³.
11. Moreover, the Gypsy and Traveller community may be unwilling or unable to take part in the surveys that inform the GTTSAA. This can be particularly problematic if they have teenagers that may require a home soon, or if a pitch is overcrowded due to concealed households. There may also be challenges

¹ Mr Doherty's adult sister

² The Buckinghamshire Gypsy and Traveller and Travelling Show People Accommodation Assessment 2017

³ APP/J0405/W/18/3193773 and APP/X0415/C/17/3190005, APP/X0415/C/17/3190019 and APP/X0415/W/17/3189060

identifying any need from Travellers in bricks and mortar housing or those currently on the roadside. It may also be necessary to factor in need from possible in-migration, particularly from nearby authorities constrained by the Green Belt and protected landscapes. For all these reasons, working with a known need of 8 pitches plus 30% of the 'unknown' need may not be sufficient.

12. That said, ORS is highly experienced in this area and its methodology has been found to be robust in several Local Plan Examinations⁴. This is principally because the methodology requires the use of reasonable endeavours to capture the views of the Traveller community in an objective way. The methodology also deals with some of the issues identified in the preceding paragraph.
13. Nevertheless, the Council accepted that the known need, even if adjusted to include some of the unknown need, is likely to be an understatement. Principally because the response rate to the survey used to inform the GTTSAA was low. The Council has therefore decided to take a precautionary approach towards the 'unknown' need. Accordingly, it has added a further 76 pitches to its need figure, which is a substantial uplift on the known need for 8 pitches.
14. The Council's strategy to address the need identified in Policy S6 is to allocate 69 pitches over the first 10 years of the VALP and then undertake a review, based on up-to-date evidence, to ascertain whether additional provision is required. A criteria-based policy has also been adopted (Policy D11 of the VALP) to deal with circumstances where there is an identified need has been established but cannot be met through the site allocations. The Council also seeks to safeguard sites already approved for travellers, including the existing pitches at Dun Romain Park.
15. This approach was found sound by the Inspector that examined the VALP and was also supported by an Inspector in a relevant appeal decision⁵. The Examining Inspector states that the VALP applies a cautious approach to the large proportion of people whose status is unclear and makes provision which includes them. The Inspector goes on to say that the allocations have either been implemented or are vacant pitches available for occupation. The Inspector's overall conclusion was that the Council's approach would be effective in meeting the needs of Gypsies and Travellers.
16. The appellant submits that the Gypsy and Traveller community did not engage in the examination of the VALP and therefore the Inspector's findings should be viewed with caution. However, there was the opportunity to be involved and the Inspector's findings were evidentially based. The evidence before me does not justify a departure from them.
17. 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. The Council submits that when additional approved sites⁶ and allocated pitches (for 2016-2026) are set against the unmet need from 2016-2021 and the need for 2021-2026, there is an oversupply of seven pitches.
18. The appellant has not provided an alternative supply figure or a site-by-site analysis to demonstrate the pitches identified by the Council in the five-year supply are unlikely to be implemented/deliverable in the relevant period. He

⁴ A list is provided at Paragraph 11 of the ORS Statement

⁵ APP/J0405/W/19/3219596 see DL34

⁶ At Tingewick and Murcott Road

has questioned pitch provision on strategic allocations by submitting that there are no examples of this being achieved in the East of England. However, this was addressed by the examining Inspector and the approach found sound.

19. The pitches at the Dun Romain Park (now Sunset Park Homes) are apparently occupied by those not meeting the PPTS definition. I share the view of the appellant that this does not in itself demonstrate that the Sunset Park Homes site is underutilised by the Gypsy and Traveller community. This is because the operators of the site may simply find it more profitable to offer pitches to those not meeting the definition, despite that being contrary to any planning permission. Therefore, Gypsies and Travellers may be unable to occupy the pitches even if they wanted to
20. However, it does not automatically follow that this means the Sunset Park Homes pitches cannot currently contribute towards the Council's supply in the five-year period, as the situation could be remedied through enforcement action. To this end, the Council are working with the site owners, who are looking to evict those not adhering to occupancy conditions. As a result, the pitches can be included in the supply, although that may change in the future if progress is not made in ensuring their availability.
21. There is no substantive evidence before me to suggest Buckinghamshire's disposal of local authority sites, and thus the reliance on private provision, has prevented adequate supply from being achieved or significantly increased in-migration in the Vale of Aylesbury (mainly from the Chiltern and South Bucks areas). Reference has been made to an appeal decision⁷ where the Council were found to have an unmet need and no five-year supply of pitches, but this predated the adoption of the VALP and the confirmation therein that the allocations are sound. Thus, on the balance of the evidence before me, I am satisfied the Council can currently demonstrate a five-year supply of pitches.
22. Accordingly, I am satisfied that the Council has an effective and recently adopted strategy for addressing the general accommodation needs of Gypsy and Travellers. I also share the view of the Council that it can currently demonstrate a five-year supply of pitches. Consequently, there is no general unmet need that could otherwise weigh in favour of the proposal. In the absence of a clear general need for further Gypsy and Traveller pitches, the appeal scheme would be contrary to Policy D11 of the VALP.

The suitability of the appeal site – Accessibility

23. Paragraph 25 of the PPTS states that local planning authorities should strictly limit new traveller sites in open countryside that are away from existing settlements or outside areas allocated in the development plan. Consequently, the appeal site is in a location where new Gypsy and Traveller development should be strictly controlled. The Council seeks to do this through Policy D11.
24. Policy D11 states that new pitches should have reasonable access to existing local services and facilities. 'Reasonable access' is not defined. That said, the policy also states that sites should be within or close to existing sustainable settlements or with good access to a classified road and/or public transport. Neither 'close' nor 'good access' are defined.

⁷ APP/J0405/W/19/3219596

25. The appeal site is not within a sustainable settlement. The nearest discernible villages are Whitfield and Turweston, but they have a limited range of services and facilities. As a result, future residents of the proposed pitches would need to travel to Brackley, which is the nearest 'sustainable settlement'.
26. Due to the intervening distance, it is highly unlikely future residents would regularly walk to Brackley. Moreover, I have not been presented with details of any public transport. Cycling is unlikely to be an option due to the distance, the need to negotiate the busy A43 and because future residents may not have the confidence, fitness or proficiency to regularly use this mode of transport.
27. Thus, the residents of the proposed pitches would be predisposed to use private motorised transport when accessing everyday facilities and services. This would result in negative impacts on carbon emissions and from disincentivising healthy travel options such as walking. Previous Inspectors, albeit in decisions that predate the VALP, similarly concluded that the appeal site performs poorly in terms of sustainable transport⁸. This was also the conclusion reached when the site was sequentially assessed as part of the preparation of the VALP.
28. However, when considered on its own merits, the appeal site is only around three miles from the centre of Brackley. Therefore, the journeys would be reasonably short when bearing in mind that accessibility needs to be considered in the context that members of the travelling community are generally reliant on vehicles wherever they live given their lifestyle. Moreover, for parts of the year some or all of the occupants of the pitches would be away travelling and therefore the number of journeys would be reduced. Thus, the appeal site's position only a couple of miles from a market town could be considered a 'close' distance that provides 'reasonable' access to existing services and facilities. Another Inspector came to similar findings when considering accessibility⁹.
29. Furthermore, the PPTS at Paragraph 13 considers the sustainability of traveller sites in the round. The provision of a settled base for two traveller families would promote access to health services, ensure that children can attend school on a regular basis and reduce the need for continuous long-distance travelling. In this instance, the appellant is also seeking to live and work on the same site. Living on one site as an extended family close to their horses would also reduce trips. Paragraph 13 of the PPTS states that this can contribute towards sustainability and Policy S1(b) of the VALP also refers to the benefits of mixed uses and flexible working as a means of minimising travel.
30. Notwithstanding this, the A43 is a classified road that provides good access into the national road network. This road, which is only about a mile away, can be easily accessed from the appeal site via a junction at Whitfield. The easy access to the national road network would facilitate travel and the nomadic habit of life the occupants suggest they engage in. The appeal site is not as well located as others sequentially considered as part of the VALP and this would explain why it has not been allocated. However, that does not mean it fails against the relevant part of Policy D11 when considered on its own merits.

⁸ Council reference 07/01570/APP and 10/01639/APP

⁹ See Paragraph 19 of APP/J0405/W/18/3193773

31. In conclusion, the proposal would provide the future occupants, who have a nomadic habit of life, with reasonable access to services and facilities. It would also be close to a sustainable settlement and a classified road. As a result, it would adhere to Policies S1 and D11(a) of the VALP.

The effect on the character and appearance of the area

32. The appeal site is located at the northern tip of an area of countryside defined as the Oatleys Plateau in the relevant Landscape Character Assessment (LCA)¹⁰. It is gently undulating, tranquil and arable in character. There are pockets of woodland and a generally intact hedgerow pattern. The LCA explains that the area is in moderate condition and has a high level of sensitivity. The aim is to restore the landscape.
33. The appeal site is separated from the adjoining road by a thick hedge, which adds to the landscape quality of the area. There is nothing of substance before me to suggest this is not in the appellant's control. The appeal site otherwise encompasses two fenced paddocks and areas of hardstanding that are untypical of the wider landscape. The bunding, close boarded fencing and extensive areas of fly tipping also set the site apart from the surrounding arable countryside. The site is also experienced in the context of a large caravan park to the immediate east and Turweston Aerodrome to the south, a fenced access to which is located to the west of the appeal site. The airfield is identified as an intrusive element. The caravans at the neighbouring park are very visible, as are the entrance gate. As a result, the appeal site and its immediate context add little to the character and appearance of the LCA save for the boundary planting, which would be retained and supplemented.
34. The proposed stable block would be located towards the back of the site away from the roadside. It would have a conventional appearance and form that would reflect its rural function. The low height and ability to use dark finishing materials, including timber cladding, would provide a rural and subtle presence. The provision of additional landscaping would also soften views and the bunds would provide screening from the south and southwest. Therefore, despite not involving the reuse of existing buildings, the proposed stable block would not be strident or out of place and would be observed in the context of the nearby caravan park, large agricultural buildings¹¹, and Turweston Aerodrome. I therefore conclude that the stable block would preserve the character and appearance of the area.
35. The siting of two mobile homes and an amenity building along with the other paraphernalia required to occupy the pitches would add visual clutter, some of which would be of a utilitarian appearance. This would intensify development in the vicinity of Sunset Park Homes, creating the impression that the park had expanded beyond its current boundaries. This would erode the countryside and create negative cumulative impacts. I therefore share the view of a previous Inspector¹² that the proposal would represent a fresh incursion into the countryside and carry development beyond the existing caravan park.
36. That said, the incursion would be into a small parcel of countryside that adds little to the quality of the LCA for the reasons already given. The pitches would

¹⁰ Aylesbury Vale Landscape Character Assessment

¹¹ To the east of Sunset Park Homes

¹² Council reference 10/01639/APP

also be seen in the context of a much larger and more intensively occupied residential caravan park, from which they would be accessed and located tightly against. Accordingly, the proposed pitches would not appear strident or out of place. In addition, the entrance to the caravan park has been altered with tall gates and high walls and internally there is a proliferating of fencing around its boundaries. This continues into the appeal site, the entrance of which now incorporates an ornate gate. The appeal site is also subject to extensive fly tipping. This has resulted in a sense of built development and clutter right up to the boundaries of the park and beyond.

37. In this respect the adjoining caravan site is no longer as well defined as the previous Inspector in 2011 recorded. Furthermore, it does not have the open and undeveloped appearance to the same extent recorded by another Inspector in 2008. Thus, the proposal would not represent an abrupt change in character. It would be a natural extension of the Sunset Park Homes site.
38. Moreover, the encroachment into the countryside would be relatively subtle. This would be especially so in this instance because the proposed pitches would be accessed via the existing driveway and therefore the existing roadside hedge would not need to be breached. The hedge, which is taller than the proposed caravans, would therefore provide an effective means of softening the presence of the proposed pitches all year round, especially if enhanced in accordance with the Biodiversity Enhancement Plan.
39. The hedge would soften and filter views of the pitches but would not entirely hide them provided there is not a proliferation of fencing, which can be controlled through the imposition of a conditions. Consequently, there would be no unreasonable sense that the future occupants of the pitches are deliberately isolating themselves from the rest of the community.
40. Thus, for the reasons outlined above, the negative impact of the proposed pitches on the character and appearance of the area would not be of a high order. In fact, it would not amount to the significant adverse impact required to trigger a conflict with Policy D11. Moreover, the proposal has been designed with recognition to the relevant LCA. As a result, the proposal, in this respect, would not be contrary to Policies S1, D11(d), BE2 or NE4 of the VALP.

Other Considerations

The accommodation needs of the future occupants

41. The intended future occupants of the two pitches currently reside at a site in Irchester¹³. The pitches they occupy are small and unsuitable for the number of residents. The indications are that the families are currently in overcrowded accommodation and are therefore in immediate need of larger pitches.
42. The appeal scheme would provide two spacious pitches that would address the overcrowding issue. It would also allow Mr F Doherty's adult children to stay at the current pitch in Irchester, thereby addressing their accommodation needs as well. The proposed future occupants of the appeal scheme have no local connection to the Brackley area, but there is no requirement in planning policy for them to demonstrate any¹⁴.

¹³ I understand that Mr F Doherty's adult children, Francie Doherty (Jr) and Rhona Doherty, also live with him and Ms M Quinn

¹⁴ Paragraph 24 of the PPTS states that travellers do not need to show a local connection

43. The appellant has investigated pitches at the adjoining Sunset Park Homes site in an attempt to live near his land, but the pitches are full and currently unavailable and may not be for some years. That said, I understand that the Council and owner are seeking to remedy this. Moreover, the Council has identified and allocated several other traveller sites. There is no substantive evidence before me to indicate that the appellant has investigated these.
44. As a result, I cannot be certain that the other allocated pitches are unavailable. In this context, the appellant has not demonstrated that their immediate housing needs cannot be addressed through alternative sites. This is important as the allocated sites were found to be sequentially better placed than the appeal site. Moreover, the guidance in Paragraph 25 of the PPTS implies that allocated sites should be considered in the first instance.
45. In conclusion, the appeal scheme would meet the accommodation needs of the intended future occupants of the appeal site and this would be a benefit of the proposal. However, the appellant has not demonstrated that approved and allocated alternatives would not also address their accommodation needs. As a result, their accommodation needs are not acute. In a plan led system, this tempers the weight I place on this matter. Overall, addressing the accommodation needs of the future occupants is a benefit of limited weight.

Personal circumstances

46. The Council does not dispute that the intended occupants of the appeal site are part of an ethnic minority and thus have the protected characteristic of race under s149(7) of the Equality Act 2010. In such circumstances, s149(1) of the Act requires due regard to be had to the need to, amongst other matters, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not. This includes minimising the disadvantages connected to that characteristic.
47. The nomadic habit of life of the proposed occupants of the pitches is linked to their culture. However, without an adequate settled base it is difficult for them to balance their traditional way of life with the practical realities of modern living. Facilitating this balance is an important part of achieving the social sustainability sought by Paragraph 13 of the PPTS.
48. The future occupants of the appeal site currently have a settled base at Irchester, although it is cramped and unsuitable. Save for other pitches at Sunset Park Homes, the appellant has failed to demonstrate that they have unsuccessfully considered other alternatives, including allocated and approved sites. That said, the future occupants of the appeal site have a strong desire to live on a pitch where they can engage in a traditional way of life that is associated with their culture – namely the keeping, breeding, and trading of horses. It is unclear whether any of the allocated sites would be suitable in this respect.
49. Paragraph 13 of the PPTS states that Local Planning Authorities should ensure that their policies reflect the extent to which traditional lifestyles can contribute to sustainability. Paragraph 18 of the PPTS also states that Local Planning Authorities should consider, wherever possible, including traveller sites suitable for mixed residential and business uses. It is unclear if the Council has done this. Thus, the equality implications weigh moderately in favour of permitting the pitches in this instance. The appellant would be disadvantaged if he is

unable to find a site/pitch from which he can live and work in a way that responds to his traditional way of life

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. There are several children in this instance and their best interests need to be carefully considered. There is nothing before me to suggest they suffer from health problems or are struggling in their education.
51. However, currently living in overcrowded accommodation is not in their best interests. I also understand that there are some tensions at their current site and the family struggles having to regularly pass a shrine erected to the appellant's late father. Moreover, their welfare and interests would be well served if they are able to live in a traditional manner as part of an extended family in a way that supports their culture. Therefore, enabling them to live at a site where they can live securely and take part in the keeping and trading of horses would facilitate their best interests. These points add further moderate weight in favour of the proposal.
52. I understand that Ms B Doherty is also suffering from stress following the breakup of her marriage. I am informed that moving away from Irchester would aid her mental health and sense of security. The appeal scheme would facilitate this as she could move whilst having the support of a family around her. This adds further limited weight as a benefit of the proposal.

Whether it is necessary for a rural worker to live on site

53. The appellant and his brother currently operate a horse-trading business. This requires them to rent grazing land in several locations including Towcester and Brackley. They wish to use the paddocks and stables at the appeal site for somewhere to keep horses, in what would function as a 'horse transit facility'. This would allow them to provide direct supervision of horses between sale and delivery/pick up and thus minimise the risk of a horse becoming 'cast' or suffering a sudden onset of colic. The appellant's case is supported by a letter from a vet that explains that it is advantageous for the appellant to be in sight and sound of the horses to provide a duty of care.
54. The appeal site also has the unusual benefit of providing an existing hardstanding that would safely facilitate the training of horses for sulky cart racing, which is another traditional element of the appellant's lifestyle. As a result, there is some evidence before me to indicate that the appellant is a rural worker that needs to live at his place of work.
55. That said, the case is not especially robust as there is little information about the business. For example, how many horses the appellant keeps, how many are sold, whether the business has been disadvantaged by the current situation and whether horses have become sick and injured because the appellant and his brother do not reside within site and sound of them. Moreover, no financial information or business plan has been submitted to demonstrate the business is likely to remain viable for the foreseeable future. As a result, the appellant's case has not reached the bar of demonstrating it is essential for a worker to live permanently on site.

56. However, the evidence before me does demonstrate that the appellant and his brother are engaged in horse trading and doing so at a level to establish it is for economic reasons as part of a traditional nomadic habitat of life. I have already explained that Paragraph 13 of the PPTS outlines the sustainability benefits of facilitating this and that it is therefore a matter of moderate weight.

Other benefits

57. The appeal scheme would result in a modest increase in the biodiversity value of the site because of the Biodiversity Enhancement Strategy. This would be a benefit of limited weight. The appeal site is currently in an untidy and degraded condition. It is suffering from recurring fly tipping and currently has a damaged mobile home stationed there. It is not necessary to allow the appeal scheme to remedy this situation, but a permanent on-site presence would likely assist, and this carries some limited weight in favour of the proposal.

58. Moreover, I afford some limited weight to the fact that the proposal would promote some of the matters outlined in Paragraph 26 of the PPTS, as it would reuse untidy land, would be well planned with soft landscaping and would provide space for children to have a healthy lifestyle with space to play. Moreover, future occupants would attend local schools and thus interaction would be achieved with the settled community. In addition, there would be some limited economic benefits to the rural economy from facilitating the appellant's business, such as the continued use of vets.

Other Matters

59. There is a suggestion that allowing two pitches could result in further pressure for development on the remainder of the appellant's land. However, I am not aware of any such proposals, which would need to be considered on their own merits. Moreover, the appellant wishes to use the paddocks and hardstanding in association with his equestrian business. As a result, the information before me does not suggest that allowing this appeal would inevitably result in further harmful development.

60. Substantive evidence is not before me to demonstrate that the proposal would introduce unreasonable levels of noise or odour or an adverse impact on highway safety. In fact, neither the Local Highway Authority nor the Council's Environmental Health Department objected. Officers have also set out a rational analysis in the Case Officer Report as to why the residential amenity of neighbours would not be prejudiced. I have no reason to depart from these views subject to the conditions outlined below.

61. My overall conclusion differs to those of previous Inspectors¹⁵. However, the policy context has changed. For instance, the decisions predated the PPTS and its wider definition of sustainability. Both decisions also predate the VALP. The proposal adheres to the criteria in Policy D11, although it is at odds with the requirement for an identified need to be demonstrated (I take this to mean a general need). The site context has also altered with the adjoining Sunset Park Homes being more intensively developed. These changes in circumstance indicate that my findings are not inconsistent with those of previous Inspectors.

62. Policy D11 of the VALP states that sites should remain small scale and not normally exceed 15 pitches. The Sunset Park Homes site encompasses around

¹⁵ Council reference 07/01570/APP and 10/01639/APP

21 pitches. The appeal site would add an additional two on land adjoining it. For the reasons I have gone into, this would not result in any significant adverse impacts and therefore would be appropriate in this instance. Moreover, there is nothing of substance before me to suggest the settled community would be dominated by the cumulative effect of the appeal scheme.

63. Interested parties have raised concerns about anti-social activity in the area, including littering and cars being raced along the lane. Such matters are not inherent to the development being applied for and are covered by other legislation. As such, this point is not determinative.

Planning Balance

64. Policy H of the PPTS states that planning applications should be considered in accordance with the adopted development plan unless material considerations indicate otherwise.
65. The appeal scheme would be located in the countryside away from a settlement and outside the areas allocated for traveller pitches in the VALP. As a result, the appeal site is in a location where new Gypsy and Traveller development should be strictly controlled. The Council have a recently adopted strategy for meeting the accommodation needs of travellers and can currently demonstrate a five-year supply of pitches. Furthermore, the appellant has not demonstrated that there is a general unmet need for pitches. The proposal would therefore be at odds with the spatial strategy for traveller development in the development plan. This is a matter of significance.
66. That said, it is unclear whether the allocations address the desire of the appellant and his brother to live and work on the same site. The PPTS explains that there are sustainability advantages in doing so. The existing pitches at the Sunset Park Homes site are not currently available and may not be for some time. The appeal scheme would address the immediate but not acute accommodation needs of the families, who would live on a well-planned and spacious site. There would also be equality benefits in facilitating a traditional lifestyle that would also support the best interests of children. Moreover, when applying the tests in Policy D11, the appeal site would have reasonable access to services and facilities, would be close to a sustainable settlement and would have good access to a classified road. In addition, the proposal would not have a 'significant' impact on the character and appearance of the area and would provide a net benefit to biodiversity.
67. Overall, in this instance the specific circumstances of the case demonstrate that the benefits of the proposal would outweigh its adverse impacts. This is a material consideration that indicates the proposal should be determined otherwise than in accordance with the development plan. In arriving at this view, I considered whether a temporary permission should be imposed but decided against this given the permanent nature of the stables and because there is nothing before me to suggest the Council are intending to identify or allocate mixed use pitches, such as that proposed, in the medium term.

Conditions

68. In addition to a commencement condition, it is necessary to impose a plans condition in the interests of certainty. The proposal is acceptable due to the personal circumstances of the intended occupiers. Therefore, it is necessary to

impose a personal permission and also restrict occupation to those meeting the PPTS definition. As only two pitches have been justified it is necessary to confirm this. The caravans must meet the relevant definition regardless of whether they are single or twin unit.

69. It is necessary in the interests of safeguarding the character and appearance of the area and the living conditions of neighbours to limit the size of vehicles and the extent of external lighting, and to prevent commercial activity unrelated to the equine business. For the same reasons, and to support biodiversity, it is necessary for details of landscaping, boundary treatment, materials and drainage to be submitted, approved and protected. Moreover, it is necessary to remove permitted development rights for works that could cumulatively or individually harm the appearance of the site. To safeguard living conditions, it is necessary to control construction hours and prevent the use of generators.

Conclusion

70. The proposal would not adhere to the development plan but in this instance, there are other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has been allowed.

Graham Chamberlain
INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) Subject to the other conditions imposed on this planning permission, the development hereby permitted shall be implemented in accordance with the following approved plan and any other plans required pursuant to the conditions hereby imposed: Proposed site plan – no. 2495/4, June 2018; Proposed stabling plan/ tack room, feed and fodder store no. 2495/1, June 2018; Proposed pitches and stabling no. 2495/3A, June 2018; Biodiversity Enhancement Plan, Lockhart Garrett v1. No. 18-2751 March 2018.
- 3) The two pitches hereby permitted shall not be occupied other than by the following so long as they met the definition of a gypsies and traveller as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).

Pitch 1 – Mr H Doherty, Ms S Smith and their resident dependents.

Pitch 2 – Mr F Doherty, Ms M Quinn and their resident dependents.

When the land ceases to be occupied by those named above, the use hereby permitted shall cease and all caravans, structures, 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 vehicle over 3.5 tonnes shall be stationed, parked or stored on the site and there shall be a maximum of one commercial vehicle per pitch.
- 6) Prior to occupation of the development, space shall be laid out within the site for the parking and manoeuvring of vehicles in accordance with the approved plans. This area shall be permanently maintained for the parking and manoeuvring of vehicles.
- 7) The development shall be implemented in accordance with the approved Biodiversity Enhancement Plan (Lockhart Garrett, 2019). The pitches shall not be occupied until a written statement from a suitably qualified ecologist acting for the developer testifying to the plan having been delivered correctly has been submitted to and approved in writing by the Local Planning Authority.
- 8) No commercial activities (other than that related to the occupant's equestrian business) shall take place on the land, including the storage of materials.
- 9) Notwithstanding the submitted details, and prior to the first occupation of the site, a Site Development Scheme shall be submitted to and approved in

writing by the Local Planning Authority. The site development scheme shall include the following details:

- a) The internal layout of the site, including the layout of caravans, vehicular access, parking and turning spaces within the site, amenity areas, fencing and refuse storage and collection areas.
- b) the means of foul and surface water drainage of the site, and means of emptying the septic tank, if retained
- c) any external lighting;
- d) finished ground levels and all surfacing materials;
- e) all proposed means of enclosure and fencing;
- f) The external finishing materials and colours of all buildings;
- g) all hard and soft landscaping of the site, including tree, hedge and shrub planting with details of species, plant sizes and proposed numbers and densities.

The development shall be implemented and occupied in accordance with the approved details.

- 10) Any trees or plants put in place in accordance with condition 8) above which within a period of 5 years from their planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation
- 11) 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 as part of the Site Development Scheme.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved site development scheme shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority.
- 13) Demolition or construction works shall not take place outside 0800hrs and 1800hrs Monday to Friday, 0800hrs and 1300hrs on Saturdays or at any time on Sundays of public holidays.
- 14) No generators shall be used on the land at any time.

End of Schedule